ONE-HUNDRED FIRST DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, April 22, 2009

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Haugen, Pflug, Prentice and Tom.

The Sergeant at Arms Color Guard consisting of Pages Anthony Hill and Rachel Garner, presented the Colors. Senator Shin offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE GOVERNOR
GUBERNATORIAL APPOINTMENTS

April 21, 2009

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

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

LENSA ETANA, appointed April 9, 2009, for the term ending December 5, 2012, as Member of the Eastern State Hospital Advisory Board.

Sincerely,
CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Human Services & Corrections.

April 21, 2009

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

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

DAVID TROUTT, reappointed July 16, 2006, for the term ending July 15, 2010, as Member of the Salmon Recovery Funding Board.

Sincerely,
CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Natural Resources, Ocean & Recreation.

MOTION

On motion of Senator Eide, the appointees listed on the Gubernatorial Appointment report was referred to the committees as designated.

MOTION

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

MESSAGE FROM THE HOUSE

April 21, 2009

MR. PRESIDENT:
The Speaker has signed the following:
SENATE BILL NO. 5173,
SENATE BILL NO. 5180,
SUBSTITUTE SENATE BILL NO. 5286,
SENATE BILL NO. 5289,
SUBSTITUTE SENATE BILL NO. 5531,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 21, 2009

MR. PRESIDENT:
The Speaker has signed the following:
SENATE BILL NO. 5008,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5011,
SENATE BILL NO. 5038,
SUBSTITUTE SENATE BILL NO. 5040,
SUBSTITUTE SENATE BILL NO. 5042,
SUBSTITUTE SENATE BILL NO. 5056,
SENATE BILL NO. 5060,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5110,
SENATE BILL NO. 5120,
SENATE BILL NO. 5153,
SUBSTITUTE SENATE BILL NO. 5160,
SUBSTITUTE SENATE BILL NO. 5171,
SUBSTITUTE SENATE BILL NO. 5172,
SUBSTITUTE SENATE BILL NO. 5177,
SUBSTITUTE SENATE BILL NO. 5199,
SUBSTITUTE SENATE BILL NO. 5229,
SUBSTITUTE SENATE BILL NO. 5248
ENGROSSED SUBSTITUTE SENATE BILL NO. 5262,
SUBSTITUTE SENATE BILL NO. 5268,
SUBSTITUTE SENATE BILL NO. 5270,
SENATE BILL NO. 5277,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 21, 2009

MR. PRESIDENT:
The Speaker has signed the following:
SECOND SUBSTITUTE SENATE BILL NO. 5045,
SUBSTITUTE SENATE BILL NO. 5273,
SENATE BILL NO. 5452,
SUBSTITUTE SENATE BILL NO. 5461,
SUBSTITUTE SENATE BILL NO. 5468,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5473,
SENATE BILL NO. 5482,
SUBSTITUTE SENATE BILL NO. 5504,
SUBSTITUTE SENATE BILL NO. 5509,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5513,
SUBSTITUTE SENATE BILL NO. 5539,
SENATE BILL NO. 5540,
SUBSTITUTE SENATE BILL NO. 5556,
SUBSTITUTE SENATE BILL NO. 5561,
SUBSTITUTE SENATE BILL NO. 5565,
SUBSTITUTE SENATE BILL NO. 5566,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5583,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5601,
SUBSTITUTE SENATE BILL NO. 5608,
SUBSTITUTE SENATE BILL NO. 5610,
SUBSTITUTE SENATE BILL NO. 5616,

SENATE BILL NO. 5629,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5651,
SUBSTITUTE SENATE BILL NO. 5665,
SENATE BILL NO. 5673,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5688,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 21, 2009

MR. PRESIDENT:
The Speaker has signed the following:
SUBSTITUTE SENATE BILL NO. 5318,
SUBSTITUTE SENATE BILL NO. 5340,
SECOND SUBSTITUTE SENATE BILL NO. 5346,
SENATE BILL NO. 5355,
SUBSTITUTE SENATE BILL NO. 5360
SUBSTITUTE SENATE BILL NO. 5367,
SUBSTITUTE SENATE BILL NO. 5368,
SUBSTITUTE SENATE BILL NO. 5401,
SUBSTITUTE SENATE BILL NO. 5402
SUBSTITUTE SENATE BILL NO. 5410,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5414,
SUBSTITUTE SENATE BILL NO. 5501,
SENATE BILL NO. 5547,
SENATE BILL NO. 5568,
SUBSTITUTE SENATE BILL NO. 5719,
SENATE BILL NO. 5720,
SUBSTITUTE SENATE BILL NO. 5724,
SENATE BILL NO. 5731,
SUBSTITUTE SENATE BILL NO. 5738,
ENGROSSED SENATE BILL NO. 5810,
SUBSTITUTE SENATE BILL NO. 5834,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5854,
SUBSTITUTE SENATE BILL NO. 5891,
SUBSTITUTE SENATE BILL NO. 5921,
ENGROSSED SENATE BILL NO. 5925,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 21, 2009

MR. PRESIDENT:
The House has passed the following bills:
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2318,
HOUSE BILL NO. 2331,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 21, 2009

MR. PRESIDENT:
The House has passed the following bills:
SUBSTITUTE HOUSE BILL NO. 2356,
ENGROSSED HOUSE BILL NO. 2358,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 21, 2009

MR. PRESIDENT:
The Speaker has signed the following:
SECOND SUBSTITUTE HOUSE BILL NO. 1021,
SUBSTITUTE HOUSE BILL NO. 1036,
ENGROSSED HOUSE BILL NO. 1087,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1123,
HOUSE BILL NO. 1127,
HOUSE BILL NO. 1137,
HOUSE BILL NO. 1166,
ENGROSSED HOUSE BILL NO. 1167,
SUBSTITUTE HOUSE BILL NO. 1201,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1208,
SUBSTITUTE HOUSE BILL NO. 1215,
SUBSTITUTE HOUSE BILL NO. 1225,
HOUSE BILL NO. 1295,
SUBSTITUTE HOUSE BILL NO. 1300,
SUBSTITUTE HOUSE BILL NO. 1309,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1326,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1349,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1362,
SECOND SUBSTITUTE HOUSE BILL NO. 1373,
ENGROSSED HOUSE BILL NO. 1385,
HOUSE BILL NO. 1395,
SUBSTITUTE HOUSE BILL NO. 1402,
HOUSE BILL NO. 1433,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1445,
HOUSE BILL NO. 1448,
SECOND SUBSTITUTE HOUSE BILL NO. 1484,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 21, 2009

MR. PRESIDENT:
The Speaker has signed the following:
HOUSE BILL NO. 1158,
HOUSE BILL NO. 1184,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1516,
SUBSTITUTE HOUSE BILL NO. 1529,
ENGROSSED HOUSE BILL NO. 1530,
SUBSTITUTE HOUSE BILL NO. 1552,
ENGROSSED HOUSE BILL NO. 1566,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1571,
SUBSTITUTE HOUSE BILL NO. 1583,
HOUSE BILL NO. 1589,
HOUSE BILL NO. 1640,
HOUSE BILL NO. 1717,
SUBSTITUTE HOUSE BILL NO. 1740,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1741,
SUBSTITUTE HOUSE BILL NO. 1749,
SUBSTITUTE HOUSE BILL NO. 1769,
SUBSTITUTE HOUSE BILL NO. 1778,
HOUSE BILL NO. 1789,
HOUSE BILL NO. 1790,
SUBSTITUTE HOUSE BILL NO. 1791,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1792,
SUBSTITUTE HOUSE BILL NO. 1793,
SUBSTITUTE HOUSE BILL NO. 1812,
SUBSTITUTE HOUSE BILL NO. 1816,
ENGROSSED HOUSE BILL NO. 1824,
HOUSE BILL NO. 1835,
SUBSTITUTE HOUSE BILL NO. 1856,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1879,
SECOND SUBSTITUTE HOUSE BILL NO. 1899,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 21, 2009

MR. PRESIDENT:
The Speaker has signed the following:
SUBSTITUTE HOUSE BILL NO. 1943,
SECOND SUBSTITUTE HOUSE BILL NO. 1946,
SECOND SUBSTITUTE HOUSE BILL NO. 1951,
SUBSTITUTE HOUSE BILL NO. 1957,
ENGROSSED HOUSE BILL NO. 1967,
SUBSTITUTE HOUSE BILL NO. 2003,
HOUSE BILL NO. 2014,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2021,
HOUSE BILL NO. 2025,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2049,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2072,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2075,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2078,
SUBSTITUTE HOUSE BILL NO. 2079,
SECOND SUBSTITUTE HOUSE BILL NO. 2106,
SECOND SUBSTITUTE HOUSE BILL NO. 2119,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2128,
HOUSE BILL NO. 2129,
HOUSE BILL NO. 2146,
SUBSTITUTE HOUSE BILL NO. 2157,
SUBSTITUTE HOUSE BILL NO. 2160,
HOUSE BILL NO. 2199,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2222,
SUBSTITUTE HOUSE BILL NO. 2223,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2261,
SUBSTITUTE HOUSE BILL NO. 2287,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2289,
HOUSE BILL NO. 2313,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 21, 2009

MR. PRESIDENT:
The House concurred in Senate amendment to the following bills and passed the bills as amended by the Senate:
SUBSTITUTE HOUSE BILL NO. 1347,
SUBSTITUTE HOUSE BILL NO. 1919,
ENGROSSED HOUSE BILL NO. 1986,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2035,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2227,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 6187 by Senator McCaslin

AN ACT Relating to criminal statute of limitations; and reenacting and amending RCW 9A.04.080.

Referred to Committee on Judiciary.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

SHB 2363 by House Committee on Ways & Means (originally sponsored by Representative Linville)

AN ACT Relating to temporary suspension of cost-of-living increases for educational employees; amending RCW 28A.400.205, 28B.50.465, and 28B.50.468; providing an effective date; and declaring an emergency.

Referred to Committee on Ways & Means.

MOTION

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

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Marr moved that Gubernatorial Appointment No. 9150, Ted Baseler, as a member of the Board of Regents, Washington State University, be confirmed.
Senator Marr spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Pflug was excused.

MOTION

On motion of Senator Marr, Senators Brown, Haugen, Prentice and Tom were excused.

PARLIAMENTARY INQUIRY

Senator Benton: "Thank you Mr. President. I understand that Rule 46 has been suspended and, which states, that no committee shall sit during the daily session of the Senate unless by special leave. No committee shall sit during any scheduled caucus, so I understand that rule has been suspended. My question to you and parliamentary inquiry is: the appropriateness of members missing votes. I think there's two separate issues here. We have members that are performing their official duties as members of the committee which precludes them from being here on the floor to actually cast a vote on behalf of their constituents. So, we may have relieved them of the rule, rule number 46, I think it's inappropriate and I'd like to have it duly noted in the record that we have members that cannot be here to vote because they are performing official duties in committee which is the reason for rule 46 in the first place."

REMARKS BY SENATOR EIDE

Senator Eide: "Thank you Mr. President. Just for the information of the good gentleman. In fact they have adjourned and are in the chambers as we speak."

APPOINTMENT OF TED BASELER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9150, Ted Baseler as a member of the Board of Regents, Washington State University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9150, Ted Baseler as a member of the Board of Regents, Washington State University and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Haugen, Pflug, Prentice and Tom

Gubernatorial Appointment No. 9150, Ted Baseler, having received the constitutional majority was declared confirmed as a member of the Board of Regents, Washington State University.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Fraser moved that Gubernatorial Appointment No. 9064, Keith L. Kessler, as a member of the Board of Trustees, the Evergreen State College, be confirmed.

Senator Fraser spoke in favor of the motion.

APPOINTMENT OF KEITH L. KESSLER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9064, Keith L. Kessler as a member of the Board of Trustees, the Evergreen State College.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9064, Keith L. Kessler as a member of the Board of Trustees, the Evergreen State College and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Haugen and Tom

Gubernatorial Appointment No. 9064, Keith L. Kessler, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, the Evergreen State College.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9156, Jeffrey D. Goltz, as a member of the Utilities and Transportation Commission, be confirmed.

Senator Rockefeller spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senator Brown was excused.

APPOINTMENT OF JEFFREY D. GOLTZ

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9156, Jeffrey D. Goltz as a member of the Utilities and Transportation Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9156, Jeffrey D. Goltz as a member of the Utilities and Transportation Commission and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Haugen and Tom

Gubernatorial Appointment No. 9156, Jeffrey D. Goltz, having received the constitutional majority was declared confirmed as a member of the Utilities and Transportation Commission.

MOTION

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

MESSAGE FROM THE HOUSE

April 20, 2009

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 1081 and asks Senate to recede therefrom.
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Jarrett moved that the Senate recede from its position on Second Substitute House Bill No. 1081 and pass the bill without the Senate amendment(s).

Senators Jarrett and Swecker spoke in favor of passage of the motion.

The President declared the question before the Senate to be motion by Senator Jarrett that the Senate recede from its position on Second Substitute House Bill No. 1081 and pass the bill without Senate amendment(s).

The motion by Senator Jarrett carried and the Senate receded from its position on Second Substitute House Bill No. 1081 and pass the bill without the Senate amendment(s).

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1081 without the Senate amendments.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1081, without the Senate amendment(s), and the bill passed the Senate by the following

vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

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

Voting nay: Senators Benton, Holmquist, Honeyford and Stevens

SECOND SUBSTITUTE HOUSE BILL NO. 1081, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1119 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1119.

Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kline that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1119.

The motion by Senator Kline carried and the Senate receded from its amendments to Substitute House Bill No. 1119 by voice vote.

MOTION

On motion of Senator Kline, the rules were suspended and Substitute House Bill No. 1119 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1119, by House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Goodman and Kelley)

Concerning the management of funds held by nonprofit institutions.

The measure was read the second time.

MOTION

Senator Kline moved that the following striking amendment by Senators Kline and Kohl-Welles be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** SHORT TITLE. This act may be known and cited as the uniform prudent management of institutional funds act.

NEW SECTION. **Sec. 2.** DEFINITIONS. In this chapter:

(1) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community.

(2) "Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. "Endowment fund" does not include assets that an institution designates as an endowment fund for its own use.

(3) "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

(4) "Institution" means:

(a) A person, other than an individual, organized and operated exclusively for charitable purposes;

(b) A government or governmental subdivision, agency, or instrumentality, to the extent that it holds funds exclusively for a charitable purpose; or

(c) A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

(5) "Institutional fund" means a fund held by an institution exclusively for charitable purposes. "Institutional fund" does not include:

(a) Program-related assets;

(b) A fund held for an institution by a trustee that is not an institution; or

(c) A fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(7) "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

(8) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

NEW SECTION. **Sec. 3.** STANDARD OF CONDUCT IN MANAGING AND INVESTING INSTITUTIONAL FUND. (1) Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

(2) In addition to complying with the duty of loyalty imposed by law other than this chapter, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(3) In managing and investing an institutional fund, an institution:

(a) May incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution; and

(b) Shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

(4) An institution may pool two or more institutional funds for purposes of management and investment.

(5) Except as otherwise provided by a gift instrument, the following rules apply:

(a) In managing and investing an institutional fund, the following factors, if relevant, must be considered:

(i) General economic conditions;

(ii) The possible effect of inflation or deflation;

(iii) The expected tax consequences, if any, of investment decisions or strategies;

(iv) The role that each investment or course of action plays within the overall investment portfolio of the fund;

(v) The expected total return from income and the appreciation of investments;

(vi) Other resources of the institution;

(vii) The needs of the institution and the institutional fund to make distributions and to preserve capital; and

(viii) An asset's special relationship or special value, if any, to the charitable purposes of the institution.

(b) Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the institutional fund and to the institution.

(c) Except as otherwise provided by law, an institution may invest in any kind of property or type of investment consistent with this section.

(d) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification.

(e) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms, and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of this chapter.

(f) A person that has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds.

NEW SECTION. **Sec. 4.** APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF ENDOWMENT FUND--RULES OF CONSTRUCTION. (1) Subject to the intent of a donor expressed in the gift instrument, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

(a) The duration and preservation of the endowment fund;

(b) The purposes of the institution and the endowment fund;

(c) General economic conditions;

(d) The possible effect of inflation or deflation;

(e) The expected total return from income and the appreciation of investments;

(f) Other resources of the institution; and

(g) The investment policy of the institution.

(2) To limit the authority to appropriate for expenditure or accumulate under subsection (1) of this section, a gift instrument must specifically state the limitation.

(3) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income," "interest," "dividends," or "rents, issues, or profits," or "to preserve the principal intact," or words of similar import:

(a) Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and

(b) Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection (1) of this section.

NEW SECTION. **Sec. 5.** DELEGATION OF MANAGEMENT AND INVESTMENT FUNCTIONS. (1) Subject to any specific limitation set forth in a gift instrument or in law other than this chapter, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:

(a) Selecting an agent;

(b) Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and

(c) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

(2) In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

(3) An institution that complies with subsection (1) of this section is not liable for the decisions or actions of an agent to which the function was delegated.

(4) By accepting delegation of a management or investment function from an institution that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state in all proceedings arising from or related to the delegation or the performance of the delegated function.

(5) An institution may delegate management and investment functions to its committees, officers, or employees as authorized by law.

NEW SECTION. **Sec. 6.** RELEASE OR MODIFICATION OF RESTRICTIONS ON MANAGEMENT, INVESTMENT, OR PURPOSE. (1) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.

(2) The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. The institution shall notify the attorney general of the application, and the attorney general must be given an opportunity to be heard. To the extent practicable, any modification must be made in accordance with the donor's probable intention.

(3) If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the attorney general of the application, and the attorney general must be given an opportunity to be heard.

(4) If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution, sixty days after notification to the attorney general, may release or modify the restriction, in whole or part, if:

(a) The institutional fund subject to the restriction has a total value of less than seventy-five thousand dollars. On the first day of July of each year, beginning on July 1, 2011, the dollar limit provided in this subsection (4)(a) shall increase by an amount of two thousand five hundred dollars;

(b) More than twenty years have elapsed since the fund was established; and

(c) The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

NEW SECTION. **Sec. 7.** REVIEWING COMPLIANCE. Compliance with this chapter is determined in light of the facts and circumstances existing at the time a decision is made or action is taken, and not by hindsight.

NEW SECTION. **Sec. 8.** APPLICATION TO EXISTING INSTITUTIONAL FUNDS. (1) Before July 1, 2009, this chapter applies to an institutional fund existing on the effective date of this act only if the institution's governing body elects to apply this chapter to the institutional fund before July 1, 2009.

(2) On and after July 1, 2009, this chapter applies to all institutional funds.

(3) As applied to institutional funds existing on the effective date of this act, this chapter governs only decisions made or actions taken on or after July 1, 2009, except that in the case of an institution that makes the election under subsection (1) of this section this chapter governs decisions made or actions taken on or after the date the institution elects to be covered by this chapter.

NEW SECTION. **Sec. 9.** RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act (15 U.S.C. Sec. 7001 et seq.), but does not modify, limit, or supersede 15 U.S.C. Sec. 7001(a), or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

NEW SECTION. **Sec. 10.** UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. **Sec. 11.** CAPTIONS NOT LAW. Captions used in this act are not any part of the law.

NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act constitute a new chapter in Title 24 RCW.

NEW SECTION. **Sec. 13.** The following acts or parts of acts are each repealed, effective July 1, 2009:

(1) RCW 24.44.010 (Definitions) and 1973 c 17 s 1;

(2) RCW 24.44.020 (Appropriation of appreciation) and 1973 c 17 s 2;

(3) RCW 24.44.030 (Investment authority) and 1973 c 17 s 3;

(4) RCW 24.44.040 (Delegation of investment management) and 1973 c 17 s 4;

(5) RCW 24.44.050 (Standard of conduct) and 1973 c 17 s 5;

(6) RCW 24.44.060 (Release of restrictions on use or investments) and 1973 c 17 s 6;

(7) RCW 24.44.070 (Uniformity of application and construction) and 1973 c 17 s 8;

(8) RCW 24.44.080 (Short title) and 1973 c 17 s 9;

(9) RCW 24.44.090 (Section headings) and 1973 c 17 s 10; and

(10) RCW 24.44.900 (Severability--1973 c 17) and 1973 c 17 s 7.

NEW SECTION. **Sec. 14.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kline and Kohl-Welles to Substitute House Bill No. 1119.

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

MOTION

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

On page 1, line 2 of the title, after "institutions;" strike the remainder of the title and insert "adding a new chapter to Title 24 RCW; repealing RCW 24.44.010, 24.44.020, 24.44.030, 24.44.040, 24.44.050, 24.44.060, 24.44.070, 24.44.080, 24.44.090, and 24.44.900; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 1119 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1119 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1119 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE HOUSE BILL NO. 1119 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1131 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1131.

Senator Kastama spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kastama that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1131.

The motion by Senator Kastama carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 1131 by voice vote.

MOTION

On motion of Senator Kastama, the rules were suspended and Engrossed Substitute House Bill No. 1131 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1131, by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Kenney, Pettigrew, Haler, Ericks, Bailey, Liias, Hasegawa, Hudgins, Darneille, Chase, Dunshee, Kelley, Sullivan and Nelson)

Concerning the Washington state economic development commission.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.162.010 and 2007 c 232 s 2 are each amended to read as follows:

(1) The Washington state economic development commission is established ((~~to oversee the economic development strategies and policies of the department of community, trade, and economic development~~)) as an independent agency of the state to provide the governor and legislature with policy analysis, strategic planning, program evaluation, and monitoring of the state's economic development system.

(2)(a) The Washington state economic development commission shall consist of eleven voting members appointed by the governor as follows: Six representatives of the private sector, one representative of labor, one representative of port districts, one representative of four-year state public higher education, one representative for state community or technical colleges, and one representative of associate development organizations. The director of the department of community, trade, and economic development, the director of the workforce training and education coordinating board, the commissioner of the employment security department, and the chairs and ranking minority members of the standing committees of the house of representatives and the senate overseeing economic development policies shall serve as nonvoting ex officio members.

The chair of the commission shall be a voting member selected by the governor with the consent of the senate, and shall serve at the pleasure of the governor. In selecting the chair, the governor shall seek a person who understands the future economic needs of the state and nation and the role the state's economic development system has in meeting those needs.

(b) In making the appointments, the governor shall consult with organizations that have an interest in economic development, including, but not limited to, industry associations, labor organizations, minority business associations, economic development councils, chambers of commerce, port associations, tribes, and the chairs of the legislative committees with jurisdiction over economic development.

(c) The members shall be representative of the geographic regions of the state, including eastern and central Washington, as well as represent the ethnic diversity of the state. Private sector members shall represent existing and emerging industries, small businesses, women-owned businesses, and minority-owned businesses. Members of the commission shall serve statewide interests while preserving their diverse perspectives, and shall be recognized leaders in their fields with demonstrated experience in economic development or disciplines related to economic development.

(3) Members appointed by the governor shall serve at the pleasure of the governor for not more than two consecutive three-year terms, except that, as determined by the governor, the terms of four of the appointees on the commission on the effective date of this section will expire in 2010, the terms of four of the appointees on the commission on the effective date of this section will expire in 2011, and the terms of three of the appointees on the commission on the effective date of this section will expire in 2012. Thereafter all terms shall be for three years. Vacancies shall be filled in the same manner as the original appointments.

(4) The commission may establish committees as it desires, and may invite nonmembers of the commission to serve as committee members.

(5) The executive director of the commission shall be appointed by the governor with the consent of the voting members of the commission. The salary of the executive director shall be set by the governor with the consent of the commission. The governor may dismiss the executive director only with the approval of a majority vote of the commission. The commission, by a majority vote, may dismiss the executive director with the approval of the governor.

(6) The commission may adopt rules for its own governance.

(7) Members are eligible to receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060.

(8) A majority of members currently appointed constitutes a quorum for the purpose of conducting business.

Sec. 2. RCW 43.162.020 and 2007 c 232 s 4 are each amended to read as follows:

(1) The Washington state economic development commission shall:

(((~~1~~))) (a) Concentrate its major efforts on planning, coordination, evaluation, policy analysis, and recommending improvements to the state's economic development system using, but not limited to, the "Next Washington" plan and the global competitiveness council recommendations;

(((~~2~~))) (b) Develop and maintain on a biennial basis a state comprehensive plan for economic development, including but not limited to goals, objectives, and priorities for the state economic development system; identify the elements local associate development organizations must include in their countywide economic development plans; and review the state system for consistency with the state comprehensive plan. In developing the state comprehensive plan for economic development, the commission shall use, but may not be limited to: Economic, labor market, and populations trend reports in office of financial management forecasts; the annual state economic climate report prepared by the economic climate council; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome evaluations; the needs of industry associations, industry clusters, businesses, and employees as evidenced in formal surveys and other input;

(((~~3~~))) (c) Establish and maintain an inventory of the programs of the state economic development system and related state programs; perform a biennial assessment of the ongoing and strategic economic development needs of the state; and assess the extent to which the economic development system and related programs represent a consistent, coordinated, efficient, and integrated approach to meet such needs; ((~~and~~

~~(4)~~)) (d) Produce a biennial report to the governor and the legislature on progress by the commission in coordinating the state's economic development system and meeting the other obligations of this chapter, as well as include recommendations for any statutory changes necessary to enhance operational efficiencies or improve coordination;

(e) Consult, collaborate, and coordinate with other state agencies and local organizations when developing plans, inventories, and assessments so as to avoid duplication of effort; and

(f) Have the authority to accept gifts, grants, donations, sponsorships, or contributions from any federal, state, or local governmental agency or program or any private source and expend the same for any purpose consistent with the provisions of this chapter.

(2) The commission may delegate to the executive director any of the functions of this section.

(3) The executive director must present a fiscal report to the commission quarterly for its review and approval.

(4) To maintain its leadership and concentration on strategic planning, coordination, and assessment of the economic development system as a whole, the commission shall not take an administrative role in the delivery of services.

Sec. 3. 2007 c 232 s 6 (uncodified) is amended to read as follows:

(1) ((~~The commission must develop and update a state comprehensive plan for economic development and an initial inventory of economic development programs, as required under section 4 of this act, by June 30, 2008.~~

~~(2)~~)) Using the information from ((~~the~~)) its initial inventory of economic development programs, public input, and such other information as it deems appropriate, the commission shall, by ((~~September 1, 2008~~)) November 1, 2009, provide a report

with findings, analysis, and recommendations to the governor and the legislature on the appropriate state role in economic development and the appropriate administrative and regional structures for the provision of economic development services. The report shall address how best to organize the state system to ensure that the state's economic development efforts:

(a) Are organized around a clear central mission and aligned with the state's comprehensive plan for economic development;

(b) Are capable of providing focused and flexible responses to changing economic conditions;

(c) Generate greater local capacity to respond to local opportunities and needs;

(d) Face no administrative barriers to efficiency and effectiveness;

(e) Maximize results through partnerships and the use of intermediaries; and

(f) Provide increased accountability to the public, the executive branch, and the legislature.

((~~(3)~~)) (2) The report should address the potential value of creating or consolidating specific programs if doing so would be consistent with an agency's core mission, and the potential value of removing specific programs from an agency if the programs are not central to the agency's core mission.

Sec. 4. RCW 43.330.280 and 2009 c 72 s 2 are each amended to read as follows:

(1) The Washington state economic development commission shall, with the advice of an innovation partnership advisory group selected by the commission:

(a) Provide information and advice to the department of community, trade, and economic development to assist in the implementation of the innovation partnership zone program, including criteria to be used in the selection of grant applicants for funding;

(b) Document clusters of companies throughout the state that have comparative competitive advantage or the potential for comparative competitive advantage, using the process and criteria for identifying strategic clusters developed by the working group specified in subsection (2) of this section;

(c) Conduct an annual innovation opportunity analysis to identify (i) the strongest current intellectual assets and research teams in the state focused on emerging technologies and their commercialization, and (ii) faculty and researchers that could increase their focus on commercialization of technology if provided the appropriate technical assistance and resources;

(d) Based on its findings and analysis, and in conjunction with the higher education coordinating board and research institutions:

(i) Develop a plan to be updated annually to build on existing, and develop new, intellectual assets and innovation research teams in the state in research areas where there is a high potential to commercialize technologies. The commission shall present the plan to the governor and legislature by December 31, 2009, and by December 31st of each year thereafter. The higher education coordinating board shall be responsible for implementing the plan in conjunction with the publicly funded research institutions in the state. The plan shall address the following elements and such other elements as the commission deems important:

(A) Specific mechanisms to support, enhance, or develop innovation research teams and strengthen their research and commercialization capacity in areas identified as useful to strategic clusters and innovative firms in the state;

(B) Identification of the funding necessary for laboratory infrastructure needed to house innovation research teams;

(C) Specification of the most promising research areas meriting enhanced resources and recruitment of significant entrepreneurial researchers to join or lead innovation research teams;

(D) The most productive approaches to take in the recruitment, in the identified promising research areas, of a minimum of ((~~ten~~)) one significant entrepreneurial researcher((~~s over the next ten years~~)) per year to join or lead innovation research teams;

(E) Steps to take in solicitation of private sector support for the recruitment of entrepreneurial researchers and the commercialization activity of innovation research teams; and

(F) Mechanisms for ensuring the location of innovation research teams in innovation partnership zones;

(ii) Provide direction for the development of comprehensive entrepreneurial assistance programs at research institutions. The programs may involve multidisciplinary students, faculty, entrepreneurial researchers, entrepreneurs, and investors in building business models and evolving business plans around innovative ideas. The programs may provide technical assistance and the support of an entrepreneur-in-residence to innovation research teams and offer entrepreneurial training to faculty, researchers, undergraduates, and graduate students. Curriculum leading to a certificate in entrepreneurship may also be offered;

(e) Develop performance measures to be used in evaluating the performance of innovation research teams, the implementation of the plan and programs under (d)(i) and (ii) of this subsection, and the performance of innovation partnership zone grant recipients, including but not limited to private investment measures, business initiation measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation. The performance measures developed shall be consistent with the economic development commission's comprehensive plan for economic development and its standards and metrics for program evaluation. The commission shall report to the legislature and the governor by June 30, 2009, on the measures developed; and

(f) Using the performance measures developed, perform a biennial assessment and report, the first of which shall be due December 31, 2012, on:

(i) Commercialization of technologies developed at state universities, found at other research institutions in the state, and facilitated with public assistance at existing companies;

(ii) Outcomes of the funding of innovation research teams and recruitment of significant entrepreneurial researchers;

(iii) Comparison with other states of Washington's outcomes from the innovation research teams and efforts to recruit significant entrepreneurial researchers; and

(iv) Outcomes of the grants for innovation partnership zones.

The report shall include recommendations for modifications of chapter 227, Laws of 2007 and of state commercialization efforts that would enhance the state's economic competitiveness.

(2) The economic development commission and the workforce training and education coordinating board shall jointly convene a working group to:

(a) Specify the process and criteria for identification of substate geographic concentrations of firms or employment in an industry and the industry's customers, suppliers, supporting businesses, and institutions, which process will include the use of labor market information from the employment security department and local labor markets; and

(b) Establish criteria for identifying strategic clusters which are important to economic prosperity in the state, considering cluster size, growth rate, and wage levels among other factors.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.162 RCW to read as follows:

(1) The Washington state economic development commission fund is created in the state treasury. All receipts from gifts, grants, donations, sponsorships, or contributions under RCW 43.162.020 must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the Washington state economic development commission only for purposes related to carrying out the mission, roles, and responsibilities of the commission.

(2) Whenever any money, from the federal government or from other sources, that was not anticipated in the budget approved by the legislature, has actually been received and is designated to be spent for a specific purpose, the executive director shall use the unanticipated receipts process as provided in RCW 43.79.270 to request authority to spend the money.

(3) The commission shall use the small agency client services within the office of financial management for accounting, budgeting, and payroll services.

(4) The commission is subject to audits by the state auditor as provided under chapter 43.09 RCW."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Zarelli to Engrossed Substitute House Bill No. 1131.

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

MOTION

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

On page 1, line 2 of the title, after "commission;" strike the remainder of the title and insert "amending RCW 43.162.010, 43.162.020, and 43.330.280; amending 2007 c 232 s 6 (uncodified); and adding a new section to chapter 43.162 RCW."

MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Substitute House Bill No. 1131 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1131 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1131 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

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

Voting nay: Senators McCaslin and Morton

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1131 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:
SECOND SUBSTITUTE HOUSE BILL NO. 1021,
SUBSTITUTE HOUSE BILL NO. 1036,
ENGROSSED HOUSE BILL NO. 1087,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1123,
HOUSE BILL NO. 1127,
HOUSE BILL NO. 1137,
HOUSE BILL NO. 1166,
ENGROSSED HOUSE BILL NO. 1167,
SUBSTITUTE HOUSE BILL NO. 1201,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1208,
SUBSTITUTE HOUSE BILL NO. 1215,
SUBSTITUTE HOUSE BILL NO. 1225,
HOUSE BILL NO. 1295,
SUBSTITUTE HOUSE BILL NO. 1300,
SUBSTITUTE HOUSE BILL NO. 1309,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1326,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1349,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1362,
SECOND SUBSTITUTE HOUSE BILL NO. 1373,
ENGROSSED HOUSE BILL NO. 1385,
HOUSE BILL NO. 1395,
SUBSTITUTE HOUSE BILL NO. 1402,
HOUSE BILL NO. 1433,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1445,
HOUSE BILL NO. 1448,
SECOND SUBSTITUTE HOUSE BILL NO. 1484,

SIGNED BY THE PRESIDENT

The President signed:
HOUSE BILL NO. 1158,
HOUSE BILL NO. 1184,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1516,
SUBSTITUTE HOUSE BILL NO. 1529,
ENGROSSED HOUSE BILL NO. 1530,
SUBSTITUTE HOUSE BILL NO. 1552,
ENGROSSED HOUSE BILL NO. 1566,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1571,
SUBSTITUTE HOUSE BILL NO. 1583,
HOUSE BILL NO. 1589,
HOUSE BILL NO. 1640,
HOUSE BILL NO. 1717,
SUBSTITUTE HOUSE BILL NO. 1740,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1741,
SUBSTITUTE HOUSE BILL NO. 1749,
SUBSTITUTE HOUSE BILL NO. 1769,
SUBSTITUTE HOUSE BILL NO. 1778,
HOUSE BILL NO. 1789,
HOUSE BILL NO. 1790,
SUBSTITUTE HOUSE BILL NO. 1791,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1792,
SUBSTITUTE HOUSE BILL NO. 1793,
SUBSTITUTE HOUSE BILL NO. 1812,
SUBSTITUTE HOUSE BILL NO. 1816,
ENGROSSED HOUSE BILL NO. 1824,
HOUSE BILL NO. 1835,
SUBSTITUTE HOUSE BILL NO. 1856,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1879,
SECOND SUBSTITUTE HOUSE BILL NO. 1899,

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1170 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1170.

The President declared the question before the Senate to be motion by Senator Regala that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1170.

The motion by Senator Regala carried and the Senate receded from its amendments to Substitute House Bill No. 1170 by voice vote.

MOTION

On motion of Senator Regala, the rules were suspended and Substitute House Bill No. 1170 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1170, by House Committee on Judiciary (originally sponsored by Representatives McCoy, Rodne, Kelley, Warnick, Seaquist, Angel, Green, Shea, Sells, McCune, Kagi, Ormsby and Smith)

Modifying parenting plans based on the military service of a parent.

The measure was read the second time.

MOTION

Senator Regala moved that the following striking amendment by Senators Regala, Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 26.09.004 and 2008 c 6 s 1003 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Temporary parenting plan" means a plan for parenting of the child pending final resolution of any action for dissolution of marriage or domestic partnership, declaration of invalidity, or legal separation which is incorporated in a temporary order.

(2) "Permanent parenting plan" means a plan for parenting the child, including allocation of parenting functions, which plan is incorporated in any final decree or decree of modification in an action for dissolution of marriage or domestic partnership, declaration of invalidity, or legal separation.

(3) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the child. Parenting functions include:

(a) Maintaining a loving, stable, consistent, and nurturing relationship with the child;

(b) Attending to the daily needs of the child, such as feeding, clothing, physical care and grooming, supervision, health care, and day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;

(c) Attending to adequate education for the child, including remedial or other education essential to the best interests of the child;

(d) Assisting the child in developing and maintaining appropriate interpersonal relationships;

(e) Exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and the family's social and economic circumstances; and

(f) Providing for the financial support of the child.

(4) "Military duties potentially impacting parenting functions" means those obligations imposed, voluntarily or involuntarily, on a parent serving in the armed forces that may interfere with that parent's abilities to perform his or her parenting functions under a temporary or permanent parenting plan. Military duties potentially impacting parenting functions include, but are not limited to:

(a) "Deployment," which means the temporary transfer of a service member serving in an active-duty status to another location in support of a military operation, to include any tour of duty classified by the member's branch of the armed forces as "remote" or "unaccompanied";

(b) "Activation" or "mobilization," which means the call-up of a national guard or reserve service member to extended active-duty status. For purposes of this definition, "mobilization" does not include national guard or reserve annual training, inactive duty days, or drill weekends; or

(c) "Temporary duty," which means the transfer of a service member from one military base or the service member's home to a different location, usually another base, for a limited period of time to accomplish training or to assist in the performance of a noncombat mission.

Sec. 2. RCW 26.09.010 and 2008 c 6 s 1004 are each amended to read as follows:

(1) Except as otherwise specifically provided herein, the practice in civil action shall govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) A proceeding for dissolution of marriage or domestic partnership, legal separation or a declaration concerning the validity of a marriage or domestic partnership shall be entitled "In re the marriage of . . . . . and . . . . . ." or "In re the domestic partnership of . . . . . and . . . . . ." Such proceedings may be filed in the superior court of the county where the petitioner resides.

(3) In cases where there has been no prior proceeding in this state involving the marital or domestic partnership status of the parties or support obligations for a minor child, a separate parenting and support proceeding between the parents shall be entitled "In re the parenting and support of . . . . . ."

(4) The initial pleading in all proceedings under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court.

(5) In this chapter, "decree" includes "judgment".

(6) A decree of dissolution, of legal separation, or a declaration concerning the validity of a marriage or domestic partnership shall not be awarded to one of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed.

(7) In order to provide a means by which to facilitate a fair, efficient, and swift process to resolve matters regarding custody and visitation when a parent serving in the armed forces receives temporary duty, deployment, activation, or mobilization orders from the military, the court shall, upon motion of such a parent:

(a) For good cause shown, hold an expedited hearing in custody and visitation matters instituted under this chapter when the military duties of the parent have a material effect on the parent's ability, or anticipated ability, to appear in person at a regularly scheduled hearing; and

(b) Upon reasonable advance notice to the affected parties and for good cause shown, allow the parent to present testimony and evidence by electronic means in custody and visitation matters instituted under this chapter when the military duties of the parent have a material effect on the parent's ability to appear in person at a regularly scheduled hearing. The phrase "electronic means" includes communication by telephone, video teleconference, or the internet.

Sec. 3. RCW 26.09.260 and 2000 c 21 s 19 are each amended to read as follows:

(1) Except as otherwise provided in subsections (4), (5), (6), (8), and (10) of this section, the court shall not modify a prior custody decree or a parenting plan unless it finds, upon the basis of facts that have arisen since the prior decree or plan or that were unknown to the court at the time of the prior decree or plan, that a substantial change has occurred in the circumstances of the child or the nonmoving party and that the modification is in the best interest of the child and is necessary to serve the best interests of the child. The effect of a parent's military duties potentially impacting parenting functions shall not, by itself, be a substantial change of circumstances justifying a permanent modification of a prior decree or plan.

(2) In applying these standards, the court shall retain the residential schedule established by the decree or parenting plan unless:

(a) The parents agree to the modification;

(b) The child has been integrated into the family of the petitioner with the consent of the other parent in substantial deviation from the parenting plan;

(c) The child's present environment is detrimental to the child's physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

(d) The court has found the nonmoving parent in contempt of court at least twice within three years because the parent failed to comply with the residential time provisions in the court-ordered parenting plan, or the parent has been convicted of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070.

(3) A conviction of custodial interference in the first or second degree under RCW 9A.40.060 or 9A.40.070 shall constitute a substantial change of circumstances for the purposes of this section.

(4) The court may reduce or restrict contact between the child and the parent with whom the child does not reside a majority of the time if it finds that the reduction or restriction would serve and protect the best interests of the child using the criteria in RCW 26.09.191.

(5) The court may order adjustments to the residential aspects of a parenting plan upon a showing of a substantial change in circumstances of either parent or of the child, and without consideration of the factors set forth in subsection (2) of this section, if the proposed modification is only a minor modification in the residential schedule that does not change the residence the child is scheduled to reside in the majority of the time and:

(a) Does not exceed twenty-four full days in a calendar year; or

(b) Is based on a change of residence of the parent with whom the child does not reside the majority of the time or an involuntary change in work schedule by a parent which makes the residential schedule in the parenting plan impractical to follow; or

(c) Does not result in a schedule that exceeds ninety overnights per year in total, if the court finds that, at the time the petition for modification is filed, the decree of dissolution or parenting plan does not provide reasonable time with the parent with whom the child does not reside a majority of the time, and further, the court finds that it is in the best interests of the child to increase residential time with the parent in excess of the residential time period in (a) of this subsection. However, any motion under this subsection (5)(c) is subject to the factors established in subsection (2) of this section if the party bringing the petition has previously been granted a modification under this same subsection within twenty-four months of the current motion. Relief granted under this section shall not be the sole basis for adjusting or modifying child support.

(6) The court may order adjustments to the residential aspects of a parenting plan pursuant to a proceeding to permit or restrain a relocation of the child. The person objecting to the relocation of the child or the relocating person's proposed revised residential schedule may file a petition to modify the parenting plan, including a change of the residence in which the child resides the majority of the time, without a showing of adequate cause other than the proposed relocation itself. A hearing to determine adequate cause for modification shall not be required so long as the request for relocation of the child is being pursued. In making a determination of a modification pursuant to relocation of the child, the court shall first determine whether to permit or restrain the relocation of the child using the procedures and standards provided in RCW 26.09.405 through 26.09.560. Following that determination, the court shall determine what modification pursuant to relocation should be made, if any, to the parenting plan or custody order or visitation order.

(7) A parent with whom the child does not reside a majority of the time and whose residential time with the child is subject to limitations pursuant to RCW 26.09.191 (2) or (3) may not seek expansion of residential time under subsection (5)(c) of this section unless that parent demonstrates a substantial change in circumstances specifically related to the basis for the limitation.

(8)(a) If a parent with whom the child does not reside a majority of the time voluntarily fails to exercise residential time for an extended period, that is, one year or longer, the court upon proper motion may make adjustments to the parenting plan in keeping with the best interests of the minor child.

(b) For the purposes of determining whether the parent has failed to exercise residential time for one year or longer, the court may not count any time periods during which the parent did not exercise residential time due to the effect of the parent's military duties potentially impacting parenting functions.

(9) A parent with whom the child does not reside a majority of the time who is required by the existing parenting plan to complete evaluations, treatment, parenting, or other classes may not seek expansion of residential time under subsection (5)(c) of this section unless that parent has fully complied with such requirements.

(10) The court may order adjustments to any of the nonresidential aspects of a parenting plan upon a showing of a substantial change of circumstances of either parent or of a child, and the adjustment is in the best interest of the child. Adjustments ordered under this section may be made without consideration of the factors set forth in subsection (2) of this section.

(11) If the parent with whom the child resides a majority of the time receives temporary duty, deployment, activation, or mobilization orders from the military that involve moving a substantial distance away from the parent's residence or otherwise would have a material effect on the parent's ability to exercise parenting functions and primary placement responsibilities, then:

(a) Any temporary custody order for the child during the parent's absence shall end no later than ten days after the returning parent provides notice to the temporary custodian, but shall not impair the discretion of the court to conduct an expedited or emergency hearing for resolution of the child's residential placement upon return of the parent and within ten days of the filing of a motion alleging an immediate danger of irreparable harm to the child. If a motion alleging immediate danger has not been filed, the motion for an order restoring the previous residential schedule shall be granted; and

(b) The temporary duty, activation, mobilization, or deployment and the temporary disruption to the child's schedule shall not be a factor in a determination of change of circumstances if a motion is filed to transfer residential placement from the parent who is a military service member.

(12) If a parent receives military temporary duty, deployment, activation, or mobilization orders that involve moving a substantial distance away from the military parent's residence or otherwise have a material effect on the military parent's ability to exercise residential time or visitation rights, at the request of the military parent, the court may delegate the military parent's residential time or visitation rights, or a portion thereof, to a child's family member, including a stepparent, or another person other than a parent, with a close and substantial relationship to the minor child for the duration of the military parent's absence, if delegating residential time or visitation rights is in the child's best interest. The court may not permit the delegation of residential time or visitation rights to a person who would be subject to limitations on residential time under RCW 26.09.191. The parties shall attempt to resolve disputes regarding delegation of residential time or visitation rights through the dispute resolution process specified in their parenting plan, unless excused by the court for good cause shown. Such a court-ordered temporary delegation of a military parent's residential time or visitation rights does not create separate rights to residential time or visitation for a person other than a parent.

(13) If the court finds that a motion to modify a prior decree or parenting plan has been brought in bad faith, the court shall assess the attorney's fees and court costs of the nonmoving parent against the moving party."

Senators Regala and Stevens spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Regala, Hargrove and Stevens to Substitute House Bill No. 1170.

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

MOTION

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

On page 1, line 2 of the title, after "parent;" strike the remainder of the title and insert "and amending RCW 26.09.004, 26.09.010, and 26.09.260."

MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 1170 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1170 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1170 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE HOUSE BILL NO. 1170 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 16, 2009

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1239 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1239.

The President declared the question before the Senate to be motion by Senator Regala that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1239.

The motion by Senator Regala carried and the Senate receded from its amendments to Substitute House Bill No. 1239 by voice vote.

MOTION

On motion of Senator Regala, the rules were suspended and Substitute House Bill No. 1239 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1239, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Kagi, Walsh, Goodman, Haler, Roberts, Appleton, Moeller and Kenney)

Addressing parenting plans and residential schedules in dependency proceedings.

The measure was read the second time.

MOTION

Senator Regala moved that the following striking amendment by Senators Regala, Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.04.030 and 2005 c 290 s 1 and 2005 c 238 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through ((~~13.34.170~~)) 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age((~~: PROVIDED, That~~)). If such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters((~~: PROVIDED FURTHER, That~~)). The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection((~~: PROVIDED FURTHER, That~~)). Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: (I) One or more prior serious violent offenses; (II) two or more prior violent offenses; or (III) three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of

which must have been committed after the juvenile's thirteenth birthday and prosecuted separately;

(C) Robbery in the first degree, rape of a child in the first degree, or drive-by shooting, committed on or after July 1, 1997;

(D) Burglary in the first degree committed on or after July 1, 1997, and the juvenile has a criminal history consisting of one or more prior felony or misdemeanor offenses; or

(E) Any violent offense as defined in RCW 9.94A.030 committed on or after July 1, 1997, and the juvenile is alleged to have been armed with a firearm.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(E)(II) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall enter an order extending juvenile court jurisdiction if the juvenile has turned eighteen years of age during the adult criminal court proceedings pursuant to RCW 13.40.300. However, once the case is returned to juvenile court, the court may hold a decline hearing pursuant to RCW 13.40.110 to determine whether to retain the case in juvenile court for the purpose of disposition or return the case to adult criminal court for sentencing.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 RCW and parenting plans or residential schedules under chapters 26.09 and 26.26 RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

Sec. 2. RCW 13.34.155 and 2000 c 135 s 1 are each amended to read as follows:

(1) The court hearing the dependency petition may hear and determine issues related to chapter 26.10 RCW in a dependency proceeding as necessary to facilitate a permanency plan for the child or children as part of the dependency disposition order or a dependency review order or as otherwise necessary to implement a permanency plan of care for a child. The parents, guardians, or legal custodian of the child must agree, subject to court approval, to establish a permanent custody order. This agreed order may have the concurrence of the other parties to the dependency including the supervising agency, the guardian ad litem of the child, and the child if age twelve or older, and must also be in the best interests of the child. If the petitioner for a custody order under chapter 26.10 RCW is not a party to the dependency proceeding, he or she must agree on the record or by the filing of a declaration to the entry of a custody order. Once an order is entered under chapter 26.10 RCW, and the dependency petition dismissed, the department shall not continue to supervise the placement.

(2)(a) The court hearing the dependency petition may establish or modify a parenting plan under chapter 26.09 or 26.26 RCW as part of a disposition order or at a review hearing when doing so will implement a permanent plan of care for the child and result in dismissal of the dependency.

(b) The dependency court shall adhere to procedural requirements under chapter 26.09 RCW and must make a written finding that the parenting plan established or modified by the dependency court under this section is in the child's best interests.

(c) Unless the whereabouts of one of the parents is unknown to either the department or the court, the parents must agree, subject to court approval, to establish the parenting plan or modify an existing parenting plan.

(d) Whenever the court is asked to establish or modify a parenting plan, the child's residential schedule, the allocation of decision-making authority, and dispute resolution under this section, the dependency court may:

(i) Appoint a guardian ad litem to represent the interests of the child when the court believes the appointment is necessary to protect the best interests of the child; and

(ii) Appoint an attorney to represent the interests of the child with respect to provisions for the parenting plan.

(e) The dependency court must make a written finding that the parenting plan established or modified by the dependency court under this section is in the child's best interests.

(f) The dependency court may interview the child in chambers to ascertain the child's wishes as to the child's residential schedule in a proceeding for the entry or modification of a parenting plan under this section. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to become part of the court record of the dependency case and the case under chapter 26.09 or 26.26 RCW.

(g) In the absence of agreement by a parent, guardian, or legal custodian of the child to allow the juvenile court to hear and determine issues related to the establishment or modification of a parenting plan under chapter 26.09 or 26.26 RCW, a party may move the court to transfer such issues to the family law department of the superior court for further resolution. The court may only grant the motion upon entry of a written finding that it is in the best interests of the child.

(h) In any parenting plan agreed to by the parents and entered or modified in juvenile court under this section, all issues pertaining to child support and the division of marital property shall be referred to or retained by the family law department of the superior court.

(3) Any court order determining issues under chapter 26.10 RCW is subject to modification upon the same showing and standards as a court order determining Title 26 RCW issues.

((~~(3)~~)) (4) Any order entered in the dependency court establishing or modifying a permanent legal custody order or, parenting plan, or residential schedule under chapters 26.09, 26.10, and 26.26 RCW shall also be filed in the chapter 26.09, 26.10, and 26.26 RCW action by the moving or prevailing party. If the petitioning or moving party has been found indigent and appointed counsel at public expense in the dependency proceeding, no filing fees shall be imposed by the clerk. Once filed, any order, parenting plan, or residential schedule establishing or modifying permanent legal custody of a child shall survive dismissal of the dependency proceeding."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Regala, Hargrove and Stevens to Substitute House Bill No. 1239.

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

MOTION

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

On page 1, line 2 of the title, after "proceedings;" strike the remainder of the title and insert "amending RCW 13.34.155; and reenacting and amending RCW 13.04.030."

MOTION

On motion of Senator Regala, the rules were suspended, Substitute House Bill No. 1239 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Stevens spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senator Delvin was excused.

MOTION

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

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1239 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1239 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brown, Delvin and Hargrove

SUBSTITUTE HOUSE BILL NO. 1239 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 20, 2009

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1292 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Oemig moved that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1292.

The President declared the question before the Senate to be motion by Senator Oemig that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1292.

The motion by Senator Oemig carried and the Senate receded from its amendments to Substitute House Bill No. 1292 by voice vote.

MOTION

On motion of Senator Oemig, the rules were suspended and Substitute House Bill No. 1292 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1292, by House Committee on Education (originally sponsored by Representatives Newhouse, Chandler and Simpson)

Authorizing waivers from the one hundred eighty-day school year requirement in order to allow four-day school weeks.

The measure was read the second time.

MOTION

Senator Oemig moved that the following striking amendment by Senators McAuliffe, Rockefeller and Honeyford be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature continues to support school districts seeking innovations to further the educational experiences of students and staff while also realizing increased efficiencies in day- to-day operations. School districts have suggested that efficiencies in heating, lighting, or maintenance expenses could be possible if districts were given the ability to create a more flexible calendar. Furthermore, the legislature finds that a flexible calendar could be beneficial to student learning by allowing for the use of the unscheduled days for professional development activities, planning, tutoring, special programs, parent conferences, and athletic events. A flexible calendar also has the potential to ease the burden of long commutes on students in rural areas and to lower absenteeism.

School districts in several western states have operated on a four- day school week and report increased efficiencies, family support, and reduced absenteeism, with no negative impact on student learning. Small rural school districts in particular could benefit due to their high per-pupil costs for transportation and utilities. Therefore, the legislature intends to provide increased flexibility to a limited number of school districts to explore the potential value of operating on a flexible calendar, so long as adequate safeguards are put in place to prevent any negative impact on student learning.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.305 RCW to read as follows:

(1) In addition to waivers authorized under RCW 28A.305.140 and 28A.655.180, the state board of education may grant waivers from the requirement for a one hundred eighty-day school year under RCW 28A.150.220 and 28A.150.250 to school districts that propose to operate one or more schools on a flexible calendar for purposes of economy and efficiency as provided in this section. The requirement

under RCW 28A.150.220 that school districts offer an annual average instructional hour offering of at least one thousand hours shall not be waived.

(2) A school district seeking a waiver under this section must submit an application that includes:

(a) A proposed calendar for the school day and school year that demonstrates how the instructional hour requirement will be maintained;

(b) An explanation and estimate of the economies and efficiencies to be gained from compressing the instructional hours into fewer than one hundred eighty days;

(c) An explanation of how monetary savings from the proposal will be redirected to support student learning;

(d) A summary of comments received at one or more public hearings on the proposal and how concerns will be addressed;

(e) An explanation of the impact on students who rely upon free and reduced-price school child nutrition services and the impact on the ability of the child nutrition program to operate an economically independent program;

(f) An explanation of the impact on the ability to recruit and retain employees in education support positions;

(g) An explanation of the impact on students whose parents work during the missed school day; and

(h) Other information that the state board of education may request to assure that the proposed flexible calendar will not adversely affect student learning.

(3) The state board of education shall adopt criteria to evaluate waiver requests. No more than five districts may be granted waivers. Waivers may be granted for up to three years. After each school year, the state board of education shall analyze empirical evidence to determine whether the reduction is affecting student learning. If the state board of education determines that student learning is adversely affected, the school district shall discontinue the flexible calendar as soon as possible but not later than the beginning of the next school year after the determination has been made. All waivers expire August 31, 2014.

(a) Two of the five waivers granted under this subsection shall be granted to school districts with student populations of less than one hundred fifty students.

(b) Three of the five waivers granted under this subsection shall be granted to school districts with student populations of between one hundred fifty-one and five hundred students.

(4) The state board of education shall examine the waivers granted under this section and make a recommendation to the education committees of the legislature by December 15, 2013, regarding whether the waiver program should be continued, modified, or allowed to terminate. This recommendation should focus on whether the program resulted in improved student learning as demonstrated by empirical evidence. Such evidence includes, but is not limited to: Improved scores on the Washington assessment of student learning, results of the dynamic indicators of basic early literacy skills, student grades, and attendance.

(5) This section expires August 31, 2014.

Sec. 3. RCW 28A.655.180 and 1995 c 208 s 1 are each amended to read as follows:

(1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to districts from the provisions of statutes or rules relating to: The length of the school year; student-to-teacher ratios; and other administrative rules that in the opinion of the state board of education or the opinion of the superintendent of public instruction may need to be waived in order for a district to implement a plan for restructuring its educational program or the educational program of individual schools within the district.

(2) School districts may use the application process in RCW 28A.305.140 ((~~or 28A.300.138~~)) to apply for the waivers under ((~~subsection (1) of~~)) this section.

((~~(3) The joint select committee on education restructuring shall study which waivers of state laws or rules are necessary for school districts to implement education restructuring. The committee shall study whether the waivers are used to implement specific essential academic learning requirements and student learning goals. The committee shall study the availability of waivers under the schools for the twenty-first century program created by chapter 525, Laws of 1987, and the use of those waivers by schools participating in that program. The committee shall also study the use of waivers authorized under RCW 28A.305.140. The committee shall report its findings to the legislature by December 1, 1997.~~))

NEW SECTION. **Sec. 4.** RCW 28A.305.145 (Application process for waivers under RCW 28A.305.140) and 1993 c 336 s 302 are each repealed."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators McAuliffe, Rockefeller and Honeyford to Substitute House Bill No. 1292.

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

MOTION

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

On page 1, line 2 of the title, after "year;" strike the remainder of the title and insert "amending RCW 28A.655.180; adding a new section to chapter 28A.305 RCW; creating a new section; repealing RCW 28A.305.145; and providing an expiration date."

MOTION

On motion of Senator Oemig, the rules were suspended, Substitute House Bill No. 1292 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1292 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1292 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 13; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Carrell, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Keiser, King, Kline, Kohl-Welles, McCaslin, McDermott, Morton, Oemig, Pflug, Prentice, Regala, Rockefeller, Schoesler, Shin, Swecker and Zarelli

Voting nay: Senators Becker, Brandland, Kauffman, Kilmer, Marr, Murray, Parlette, Pridemore, Ranker, Roach, Sheldon, Stevens and Tom

Absent: Senator McAuliffe

Excused: Senators Brown, Delvin and Hargrove

SUBSTITUTE HOUSE BILL NO. 1292 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 18, 2009

MR. PRESIDENT:

The Speaker ruled the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1379 to be beyond scope & object of the bill. House refuses to concur in said amendment and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Fraser moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1379.

Senator Fraser spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Fraser that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1379.

The motion by Senator Fraser carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 1379 by voice vote.

MOTION

On motion of Senator Fraser, the rules were suspended and Engrossed Substitute House Bill No. 1379 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1379, by House Committee on Local Government & Housing (originally sponsored by Representatives Seaquist, Angel and Liias)

Regarding moratoria and other interim official controls adopted under the shoreline management act.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature recognizes that the state, cities, and counties have moratoria authority granted through constitutional and statutory provisions and that this authority, when properly exercised, is an important aspect of complying with environmental stewardship and protection requirements.

Recognizing the fundamental role and value of properly exercised moratoria, the legislature intends to establish new moratoria procedures and to affirm moratoria authority that local governments have and may exercise when implementing the shoreline management act, while recognizing the legitimate interests of existing shoreline related developments during the period of interim moratoria.

The legislature finds that temporary moratoria on the processing of less than comprehensive shoreline amendments to the shoreline master program are occasionally necessary along "shorelines of the state."

NEW SECTION. **Sec. 2.** A new section is added to chapter 90.58 RCW to read as follows:

(1) Local governments may adopt moratoria or other interim official controls as necessary and appropriate to implement this chapter.

(2)(a) A local government adopting a moratorium or control under this section must:

(i) Hold a public hearing on the moratorium or control;

(ii) Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes;

(iii) Notify the department of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing required by this subsection;

(iv) Provide that all lawfully existing uses, structures, or other development shall continue to be deemed lawful conforming uses and may continue to be maintained, repaired, and redeveloped, so long as the use is not expanded, under the terms of the land use and shoreline rules and regulations in place at the time of the moratorium.

(b) The public hearing required by this section must be held within sixty days of the adoption of the moratorium or control.

(3) A moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review. A moratorium or control may be renewed for two six-month periods if the local government complies with subsection (2)(a) of this section before each renewal. If a moratorium or control is in effect on the date a proposed master program or amendment is submitted to the department, the moratorium or control must remain in effect until the department's final action under RCW 90.58.090; however, the moratorium expires six months after the date of submittal if the department has not taken final action.

(4) Nothing in this section may be construed to modify county and city moratoria powers conferred outside this chapter.

NEW SECTION. **Sec. 3.** A new section is added to chapter 90.58 RCW to read as follows:

(1) A temporary moratorium on the processing of less than comprehensive amendments to the shoreline master program is created along the Puget Sound, Deschutes Waterway, and Capitol Lake "shorelines of the state" in Olympia.

(2)(a) The moratorium takes effect under the following conditions:

(i) The city submits less than comprehensive amendments to its shoreline master program; and

(ii) The submittal is made either after the effective date of a state grant awarded to the city for the purpose of updating its comprehensive shoreline master program, or after work has commenced to implement the plans funded by the grant.

(b) Development proposals shall not be segmented while the moratorium is in effect.

(3) The moratorium shall not end until the comprehensive amendment to the comprehensive shoreline master program is submitted to and approved by the department.

(4) This section does not apply to any "critical area" amendments submitted solely for the purpose of incorporating critical area ordinance standards into a shoreline master program.

NEW SECTION. **Sec. 4.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Fraser and others to Engrossed Substitute House Bill No. 1379.

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

MOTION

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

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "adding new sections to chapter 90.58 RCW; creating a new section; and declaring an emergency."

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute House Bill No. 1379 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Roach and Honeyford spoke against passage of the bill.

Senator Fraser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1379 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1379 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 30; Nays, 19; Absent, 0; Excused, 0.

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

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1379 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Swecker: "Thank you Mr. President. Just to lighten the atmosphere a bit I wanted to mention to the members that when my family emigrated to this country they spelled their name z-w-e-c-k-e-r. I thought about changing it back to the original spelling just so I could be the last guy on the roll call, I don't think I'll do it."

MESSAGE FROM THE HOUSE

April 10, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5352 with the following amendment:5352-S.E AMH ENGR H3031.E

Strike everything after the enacting clause and insert the following:

"2009-11 FISCAL BIENNIUM

NEW SECTION. **Sec. 1.** (1) The transportation budget of the state is hereby adopted and, subject to the provisions set forth, the several amounts specified, or as much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds named to the designated state agencies and offices for employee compensation and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 2011.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this act.

(a) "Fiscal year 2010" or "FY 2010" means the fiscal year ending June 30, 2010.

(b) "Fiscal year 2011" or "FY 2011" means the fiscal year ending June 30, 2011.

(c) "FTE" means full-time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose that is not expended subject to the specified conditions and limitations to fulfill the specified purpose shall lapse.

(f) "Reappropriation" means appropriation and, unless the context clearly provides otherwise, is subject to the relevant conditions and limitations applicable to appropriations.

(g) "LEAP" means the legislative evaluation and accountability program committee.

GENERAL GOVERNMENT AGENCIES--OPERATING

NEW SECTION. **Sec. 101. FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION**

Motor Vehicle Account--State Appropriation. $422,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation is provided solely for staffing costs to be dedicated to state transportation activities. Staff hired to support transportation activities must have practical experience with complex construction projects.

NEW SECTION. **Sec. 102. FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Grade Crossing Protective Account--State Appropriation $705,000

NEW SECTION. **Sec. 103. FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Motor Vehicle Account--State Appropriation. $3,369,000

Puget Sound Ferry Operations Account--State Appropriation.. . . . . $100,000

TOTAL APPROPRIATION. $3,469,000

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

(1) $1,699,000 of the motor vehicle account--state appropriation is provided solely for the office of regulatory assistance integrated permitting project.

(2) $1,004,000 of the motor vehicle account--state appropriation is provided solely for the continued maintenance and support of the transportation executive information system. Of the amount provided in this subsection, $502,000 is for two existing FTEs at the department of transportation to maintain and support the system.

NEW SECTION. **Sec. 104. FOR THE MARINE EMPLOYEES COMMISSION**

Puget Sound Ferry Operations Account--State Appropriation.. . . . . $446,000

NEW SECTION. **Sec. 105. FOR THE STATE PARKS AND RECREATION COMMISSION**

Motor Vehicle Account--State Appropriation. $986,000

The appropriation in this section is subject to the following conditions and limitations: The entire appropriation in this section is provided solely for road maintenance purposes.

NEW SECTION. **Sec. 106. FOR THE DEPARTMENT OF AGRICULTURE**

Motor Vehicle Account--State Appropriation. $1,507,000

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

(1) $351,000 of the motor vehicle account--state appropriation is provided solely for costs associated with the motor fuel quality program.

(2) $1,004,000 of the motor vehicle account--state appropriation is provided solely to test the quality of biofuel. The department must test fuel quality at the biofuel manufacturer, distributor, and retailer.

NEW SECTION. **Sec. 107. FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE**

Motor Vehicle Account--State Appropriation. $502,000

NEW SECTION. **Sec. 108. FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE**

(1) As part of its 2009-11 fiscal biennium work plan, the joint legislative audit and review committee shall audit the capital cost accounting practices of the Washington state ferries. The audit must review the following and provide a report on its findings and any related recommendations to the legislature by January 2011:

(a) Costs assigned to capital accounts to determine whether they are capital costs that meet the statutory requirements for preservation and improvement activities and whether they are within the scope of legislative appropriations;

(b) Implementation of the life-cycle cost model required under RCW 47.60.345 to determine if it was developed as required and is maintained and updated when asset inspections are made; and

(c) Washington state ferries' implementation of the cost allocation methodology evaluated under section 205, chapter 518, Laws of 2007, assessing whether actual costs are allocated consistently with the methodology, whether there are sufficient internal controls to ensure proper allocation, and the adequacy of staff training.

(2) The joint legislative audit and review committee shall use existing staff and resources to conduct a review of scoping and cost estimates for transportation highway improvement and preservation projects funded in whole, or in part, by transportation partnership account--state and transportation 2003 account (nickel account)--state funds, excluding mega-projects. The review will examine whether the scoping and cost estimates guidelines used by the department of transportation are consistent with general construction industry practices and other appropriate standards. The review will include an analysis of a sample of scope and cost estimates for future projects. A report on the committee's findings and recommendations must be submitted to the house of representatives and senate transportation committees by December 2009.

TRANSPORTATION AGENCIES--OPERATING

NEW SECTION. **Sec. 201. FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION**

Highway Safety Account--State Appropriation. $2,542,000
Highway Safety Account--Federal Appropriation. . $16,540,000
School Zone Safety Account--State Appropriation. . $3,340,000
TOTAL APPROPRIATION. $22,422,000

The appropriations in this section are subject to the following conditions and limitations: $2,670,000 of the highway safety account--federal appropriation is provided solely for a target zero trooper pilot program, which the commission shall develop and implement in collaboration with the Washington state patrol. The pilot program must demonstrate the effectiveness of intense, high visibility, driving under the influence enforcement in Washington. The commission shall apply to the national highway traffic safety administration for federal highway safety grants to cover the cost of the pilot program. If the pilot program is approved for funding by the national highway traffic safety administration, and sufficient federal grants are received, the commission shall provide grants to the Washington state patrol for the purchase of twenty-one fully equipped patrol vehicles in fiscal year 2010, and up to twenty-four months of salaries and benefits for eighteen troopers and three sergeants beginning in fiscal year 2011. The legislature anticipates that an additional $1,830,000 will be appropriated from the highway safety account--federal in the 2011-13 fiscal biennium to conclude this pilot program.

NEW SECTION. **Sec. 202. FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account--State Appropriation. . . $920,000
Motor Vehicle Account--State Appropriation. $2,129,000
County Arterial Preservation Account--State Appropriation. $1,423,000
TOTAL APPROPRIATION. $4,472,000

NEW SECTION. **Sec. 203. FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Urban Arterial Trust Account--State Appropriation.. $1,824,000
Transportation Improvement Account--State Appropriation. $1,827,000
TOTAL APPROPRIATION. $3,651,000

NEW SECTION. **Sec. 204. FOR THE JOINT TRANSPORTATION COMMITTEE**

Motor Vehicle Account--State Appropriation. $1,851,000

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

(1) $236,000 of the motor vehicle account--state appropriation is a reappropriation from the 2007-09 fiscal biennium for a comprehensive analysis of mid-term and long-term transportation funding mechanisms and methods. Elements of the study will include existing data and trends, policy objectives, performance and evaluation criteria, incremental transition strategies, and possibly, scaled testing. Baseline data and methods assessment must be concluded by December 31, 2009. Performance criteria must be developed by June 30, 2010, and recommended planning level alternative funding strategies must be completed by December 31, 2010.

(2) $200,000 of the motor vehicle account--state appropriation is for the joint transportation committee to convene an independent expert review panel to review the assumptions for toll operations costs used by the department to model financial plans for tolled facilities. The joint transportation committee shall provide a report to the house of representatives and senate transportation committees by September 1, 2009.

(3) $350,000 of the motor vehicle account--state appropriation is for an independent analysis of methodologies to value the reversible lanes on Interstate 90 to be used for high capacity transit pursuant to sound transit proposition 1 approved by voters in November 2008. The independent analysis shall be conducted by sound transit and the department of transportation, using consultant resources deemed appropriate by the secretary of the department, the chief executive officer of sound transit, and the cochairs of the joint transportation committee. It shall be conducted in consultation with the federal transit and federal highway administrations and account for applicable federal laws, regulations, and practices. It shall also account for the 1976 Interstate 90 memorandum of agreement and subsequent 2004 amendment and the 1978 federal secretary of transportation's environmental decision on Interstate 90. The department and sound transit must provide periodic reports to the joint transportation committee, the sound transit board of directors, and the governor, and report final recommendations by September 1, 2009.

NEW SECTION. **Sec. 205. FOR THE TRANSPORTATION COMMISSION**

Motor Vehicle Account--State Appropriation. $1,887,000
Multimodal Transportation Account--State Appropriation $112,000
TOTAL APPROPRIATION. $1,999,000

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

(1) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify the schedule of fares for the Washington state ferry system. The transportation commission may increase ferry fares, except no fare schedule modifications may be made prior to September 1, 2009. For purposes of this subsection, "modify" includes increases or decreases to the schedule.

(2) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall establish, periodically review, and, if necessary, modify a schedule of toll charges applicable to the state route number 167 high occupancy toll lane pilot project, as required under RCW 47.56.403. For purposes of this subsection, "modify" includes increases or decreases to the schedule.

(3) Pursuant to RCW 43.135.055, during the 2009-11 fiscal biennium, the transportation commission shall periodically review and, if necessary, modify the schedule of toll charges applicable to the Tacoma Narrows bridge, taking into consideration the recommendations of the citizen advisory committee created under RCW 47.46.091. For purposes of this subsection, "modify" includes increases or decreases to the schedule.

(4) The commission may name state ferry vessels consistent with its authority to name state transportation facilities under RCW 47.01.420. When naming or renaming state ferry vessels, the commission shall consider selling the naming rights and shall make recommendations to the legislature regarding this option.

NEW SECTION. **Sec. 206. FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD**

Motor Vehicle Account--State Appropriation. $695,000

The appropriation in this section is subject to the following conditions and limitations: The freight mobility strategic investment board shall, on a quarterly basis, provide status reports to the office of financial management and the transportation committees of the legislature on the delivery of projects funded by this act.

NEW SECTION. **Sec. 207. FOR THE WASHINGTON STATE PATROL--FIELD OPERATIONS BUREAU**

State Patrol Highway Account--State Appropriation.. . . . . $232,147,000
State Patrol Highway Account--Federal Appropriation.. . . . . $10,602,000
State Patrol Highway Account--Private/Local Appropriation.. . . . . $859,000
TOTAL APPROPRIATION. . . . $243,608,000

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

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol.

(2) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the office of financial management and transportation committees of the legislature by September 30th of each year.

(3) During the 2009-11 fiscal biennium, the Washington state patrol shall continue to perform traffic accident investigations on Thurston county roads, and shall work with the county to transition the traffic accident investigations on Thurston county roads to the county by July 1, 2011.

(4) $2,125,000 of the state patrol highway account--state appropriation is provided solely for the Washington state patrol to increase the enrollment in each of the academy classes to fifty-five cadets during the 2009-11 fiscal biennium.

(5) The Washington state patrol shall collaborate with the Washington traffic safety commission to develop and implement the target zero trooper pilot program referenced in section 201 of this act.

(6) The Washington state patrol shall discuss the implementation of the pilot program described under section 218(2) of this act with any union representing the affected employees.

(7) The Washington state patrol shall assign necessary personnel and equipment to implement and operate the pilot program described under section 218(2) of this act using the portion of the automated traffic safety camera fines deposited into the state patrol highway account, but not to exceed $370,000. If the fines deposited into the state patrol highway account from automated traffic safety camera infractions do not reach $370,000, the department of transportation shall remit funds necessary to the Washington state patrol to ensure the completion of the pilot program.

NEW SECTION. **Sec. 208. FOR THE WASHINGTON STATE PATROL--INVESTIGATIVE SERVICES BUREAU**

State Patrol Highway Account--State Appropriation. $1,557,000

NEW SECTION. **Sec. 209. FOR THE WASHINGTON STATE PATROL--TECHNICAL SERVICES BUREAU**

State Patrol Highway Account--State Appropriation $104,137,000
State Patrol Highway Account--Private/Local Appropriation.. . . . . $2,008,000
TOTAL APPROPRIATION. . . . $106,145,000

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

(1) The Washington state patrol shall work with the risk management division in the office of financial management in compiling the Washington state patrol's data for establishing the agency's risk management insurance premiums to the tort claims account. The office of financial management and the Washington state patrol shall submit a report to the legislative transportation committees by December 31st of each year on the number of claims, estimated claims to be paid, method of calculation, and the adjustment in the premium.

(2) $8,673,000 of the total appropriation is provided solely for automobile fuel in the 2009-11 fiscal biennium.

(3) $8,638,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.

(4) $6,328,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.

(5) $384,000 of the total appropriation is provided solely for the purchase of mission vehicles used for highway purposes in the commercial vehicle and traffic investigation sections of the Washington state patrol.

(6) The Washington state patrol may submit information technology-related requests for funding only if the patrol has coordinated with the department of information services as required under section 601 of this act.

(7) $800,000 of the state patrol highway account--state appropriation is provided solely for the Washington state patrol to increase the enrollment in each of the academy classes to fifty-five cadets during the 2009-11 fiscal biennium.

NEW SECTION. **Sec. 210. FOR THE DEPARTMENT OF LICENSING**

Marine Fuel Tax Refund Account--State Appropriation. $32,000
Motorcycle Safety Education Account--State Appropriation.. . . . . $4,373,000
Wildlife Account--State Appropriation. $837,000
Highway Safety Account--State Appropriation. . . $145,403,000
Highway Safety Account--Federal Appropriation. $8,000
Motor Vehicle Account--State Appropriation. $78,671,000
Motor Vehicle Account--Private/Local Appropriation $1,372,000
Motor Vehicle Account--Federal Appropriation. $242,000
Department of Licensing Services Account--State Appropriation.. . . . . $4,718,000
Washington State Patrol Highway Account--State Appropriation.. . . . . $738,000
Ignition Interlock Device Revolving Account--State Appropriation.. . . . . $2,490,000
TOTAL APPROPRIATION. . . . $238,884,000

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

(1)(a) By November 1, 2009, the department of licensing, working with the department of revenue, shall analyze and plan for the transfer by July 1, 2010, of the administration of fuel taxes imposed under chapters 82.36, 82.38, 82.41, and 82.42 RCW and other provisions of law from the department of licensing to the department of revenue. By November 1, 2009, the departments shall report findings and recommendations to the governor and the transportation and fiscal committees of the legislature.

(b) The analysis and planning directed under this subsection must include, but is not limited to, the following:

(i) Outreach to and solicitation of comment from parties affected by the fuel taxes, including taxpayers, industry associations, state and federal agencies, and Indian tribes, and from the transportation and fiscal committees of the legislature;

(ii) Identification and analysis of relevant factors including, but not limited to:

(A) Taxpayer reporting and payment processes;

(B) The international fuel tax agreement;

(C) Proportional registration under the provisions of the international registration plan and chapter 46.87 RCW;

(D) Computer systems;

(E) Best management practices and efficiencies;

(F) Costs; and

(G) Personnel matters;

(iii) Development of recommended actions to accomplish the transfer; and

(iv) An implementation plan and schedule.

(c) The report must include draft legislation, which transfers administration of fuel taxes as described under (a) of this subsection to the department of revenue on July 1, 2010, and amends existing law as needed.

(2) $55,845,000 of the highway safety account--state appropriation is provided solely for the driver examining program. The department shall not close any licensing service offices other than the following anticipated closures: (a) Auburn; (b) Bellevue; (c) Bothell; (d) East Seattle; (e) Greenwood; (f) Othello; (g) West Tacoma; (h) Vancouver; (i) Yakima; and (j) the driver/vehicle licensing service office in the highway-licensing building in Olympia. The department shall, on a quarterly basis, report to the transportation committees of the legislature the following monthly data by licensing service office locations: (a) Lease costs; (b) salary and benefit costs; (c) other expenditures; (d) FTEs; (e) number of transactions completed, by type of transaction; and (f) office hours.

(3) $11,688,000 of the highway safety account--state appropriation is provided solely for costs associated with: Issuing enhanced drivers' licenses and identicards at the enhanced licensing services offices; extended hours at those licensing services offices; cross-border tourism education; and other education campaigns. This is the maximum amount the department may expend for this purpose.

(4) $2,490,000 of the ignition interlock device revolving account--state appropriation is provided solely for the department to assist indigent persons with the costs of installing, removing, and leasing the device, and applicable licensing pursuant to RCW 46.68.340.

(5) By December 31, 2009, the department shall report to the office of financial management and the transportation committees of the legislature a cost-benefit analysis of leasing versus purchasing field office equipment.

(6) By December 31, 2009, the department shall submit to the office of financial management and the transportation committees of the legislature draft legislation that rewrites RCW 46.52.130 (driving record abstracts) in plain language.

(7) The department may seek federal funds to implement a driver's license and identicard biometric matching system pilot program to verify the identity of applicants for, and holders of, drivers' licenses and identicards. If funds are received, the department shall report any benefits or problems identified during the course of the pilot program to the transportation committees of the legislature upon the completion of the program.

(8) The department may submit information technology-related requests for funding only if the department has coordinated with the department of information services as required under section 601 of this act.

(9) Consistent with the authority delegated to the director of licensing under RCW 46.01.100, the department may adopt a new organizational structure that includes the following programs: (a) Driver and vehicle services, which must encompass services relating to driver licensing customers, vehicle industry and fuel tax licensees, and vehicle and vessel licensing and registration; and (b) driver policy and programs, which must encompass policy development for all driver-related programs, including driver examining, driver records, commercial driver's license testing and auditing, driver training schools, motorcycle safety, technical services, hearings, driver special investigations, drivers' data management, central issuance contract management, and state and federal initiatives.

NEW SECTION. **Sec. 211. FOR THE DEPARTMENT OF TRANSPORTATION--TOLL OPERATIONS AND MAINTENANCE--PROGRAM B**

High Occupancy Toll Lanes Operations Account--State
Appropriation.. . . . . $2,867,000
Motor Vehicle Account--State Appropriation. $585,000
Tacoma Narrows Toll Bridge Account--State
Appropriation.. . . . . $27,358,000
State Route Number 520 Corridor Account--State
Appropriation.. . . . . $60,260,000
TOTAL APPROPRIATION. $91,070,000

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

(1) The department shall make detailed quarterly expenditure reports available to the transportation commission and to the public on the department's web site using current department resources. The reports must include a summary of revenue generated by tolls on the Tacoma Narrows bridge and an itemized depiction of the use of that revenue.

(2) The department shall work with the office of financial management to review the Tacoma Narrows bridge insurance coverage, deductibles, and limitations to assure that the asset is well protected at a reasonable cost. Results from this review must be used to negotiate any future new or extended insurance agreements.

(3) $60,260,000 of the state route number 520 corridor account is provided solely for costs directly related to tolling the state route number 520 floating bridge.

NEW SECTION. **Sec. 212. FOR THE DEPARTMENT OF TRANSPORTATION--INFORMATION TECHNOLOGY--PROGRAM C**

Transportation Partnership Account--State
Appropriation.. . . . . $2,675,000
Motor Vehicle Account--State Appropriation. $67,811,000
Motor Vehicle Account--Federal Appropriation. $240,000
Multimodal Transportation Account--State
Appropriation.. . . . . $363,000
Transportation 2003 Account (Nickel Account)--State
Appropriation.. . . . . $2,676,000
TOTAL APPROPRIATION. $73,765,000

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

(1) The department shall consult with the office of financial management and the department of information services to: (a) Ensure that the department's current and future system development is consistent with the overall direction of other key state systems; and (b) when possible, use or develop common statewide information systems to encourage coordination and integration of information used by the department and other state agencies and to avoid duplication.

(2) The department shall provide updated information on six project milestones for all active projects, funded in part or in whole with 2005 transportation partnership account funds or 2003 nickel account funds, on a quarterly basis in the transportation executive information system (TEIS). The department shall also provide updated information on six project milestones for projects, funded with preexisting funds and that are agreed to by the legislature, office of financial management, and the department, on a quarterly basis in TEIS.

(3) $1,216,000 of the transportation partnership account--state appropriation and $1,216,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for the department to develop a project management and reporting system which is a collection of integrated tools for capital construction project managers to use to perform all the necessary tasks associated with project management. The department shall integrate commercial off-the-shelf software with existing department systems and enhanced approaches to data management to provide web-based access for multi-level reporting and improved business workflows and reporting. On a quarterly basis, the department shall report to the office of financial management and the transportation committees of the legislature on the status of the development and integration of the system. At a minimum, the reports shall indicate the status of the work as it compares to the work plan, any discrepancies, and proposed adjustments necessary to bring the project back on schedule or budget if necessary.

(4) The department may submit information technology-related requests for funding only if the department has coordinated with the department of information services as required under section 601 of this act.

NEW SECTION. **Sec. 213. FOR THE DEPARTMENT OF TRANSPORTATION--FACILITY MAINTENANCE,**

OPERATIONS AND CONSTRUCTION--PROGRAM D--OPERATING

Motor Vehicle Account--State Appropriation. $25,501,000

NEW SECTION. **Sec. 214. FOR THE DEPARTMENT OF TRANSPORTATION-- AVIATION--PROGRAM F**

Aeronautics Account--State Appropriation. $6,009,000
Aeronautics Account--Federal Appropriation. $2,150,000
TOTAL APPROPRIATION. $8,159,000

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

(1) $50,000 of the aeronautics account--state appropriation is a reappropriation provided solely to pay any outstanding obligations of the aviation planning council, which expires July 1, 2009.

(2) $150,000 of the aeronautics account--state appropriation is a reappropriation provided solely to complete runway preservation projects.

NEW SECTION. **Sec. 215. FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM DELIVERY MANAGEMENT AND SUPPORT--PROGRAM H**

Motor Vehicle Account--State Appropriation. $49,142,000
Motor Vehicle Account--Federal Appropriation. $500,000
Multimodal Transportation Account--State Appropriation. $250,000
Water Pollution Account--State Appropriation. $2,000,000
TOTAL APPROPRIATION. $51,892,000

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

(1) The department shall develop a plan for all current and future surplus property parcels based on the recommendations from the surplus property legislative work group that were presented to the senate transportation committee on February 26, 2009. The plan must include, at a minimum, strategies for maximizing the number of parcels sold, a schedule that optimizes proceeds, a recommended cash discount, a plan to report to the joint transportation committee, a recommendation for regional incentives, and a recommendation for equivalent value exchanges. This plan must accompany the department's 2010 supplemental budget request. If the department determines that all or a portion of real property or an interest in real property that was acquired through condemnation or the threat of condemnation is no longer necessary for a public purpose and should be sold, the former owner shall have a right of repurchase. "Former owner" means the person or entity from whom the department acquired title and that person's or entity's successors or assigns to the property or property interest subject to the repurchase right. At least ninety days prior to the date on which the property is to be sold by the department, the department must mail notice of the planned sale to the former owner of the property at the former owner's last known address or to a forwarding address if that owner has provided the department with a forwarding address. If the former owner notifies the department within thirty days of the date of the notice that the former owner intends to repurchase the property, the department shall proceed with the sale of the property to the former owner and shall not list the property for sale to other owners. If the former owner does not provide timely written notice to the department of the intent to exercise a repurchase right, or if the sale to the former owner is not completed within one year of the date of notice that the former owner intends to repurchase the property, that right shall be extinguished.

(2) The legislature recognizes that the Dryden pit site (WSDOT Inventory Control (IC) No. 2-04-00103) is unused state-owned real property under the jurisdiction of the department of transportation, and that the public would benefit significantly from the complete enjoyment of the natural scenic beauty and recreational opportunities available at the site. Therefore, pursuant to RCW 47.12.080, the legislature declares that transferring the property to the department of fish and wildlife is consistent with the public interest in order to preserve the area for the use of the public. The department of transportation shall transfer and convey the Dryden pit site to the department of fish and wildlife for adequate consideration in the amount of $600,000, the proceeds of which must be deposited in the motor vehicle fund.

(3) $2,000,000 of the water pollution account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit, consistent with the purposes described in Substitute House Bill No. 1614, addressing petroleum pollution in storm water.

(4) The department shall work with the department of ecology, the county road administration board, and the transportation improvement board to develop model procedures, and municipal and state rules, to maximize the use of permeable concrete and asphalt on road construction and preservation projects. The department shall report to the joint transportation committee by December 1, 2009, with recommendations that will increase the use of permeable concrete and asphalt at the state and local level, and reduce the need for more costly alternative methods of storm water mitigation.

NEW SECTION. **Sec. 216. FOR THE DEPARTMENT OF TRANSPORTATION--ECONOMIC PARTNERSHIPS--PROGRAM K**

Motor Vehicle Account--State Appropriation. $565,000
Multimodal Transportation Account--State Appropriation $200,000
TOTAL APPROPRIATION. $765,000

The appropriations in this section are subject to the following conditions and limitations: $200,000 of the multimodal transportation account--state appropriation is provided solely for the department to develop and implement public private partnerships at high priority terminals as identified in the January 12, 2009, final report on joint development opportunities at Washington state ferries terminals. The department shall first consider a mutually beneficial agreement at the Edmonds terminal.

NEW SECTION. **Sec. 217. FOR THE DEPARTMENT OF TRANSPORTATION--HIGHWAY MAINTENANCE--PROGRAM M**

Motor Vehicle Account--State Appropriation. . . . $346,887,000
Motor Vehicle Account--Federal Appropriation. . . . $2,000,000
Motor Vehicle Account--Private/Local Appropriation $5,797,000
Water Pollution Account--State Appropriation. . . . $12,500,000
TOTAL APPROPRIATION. . . . $367,184,000

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

(1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, snow, and major slides, supplemental appropriations must be requested to restore state funding for ongoing maintenance activities.

(2) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account--state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

(3) The department shall request an unanticipated receipt for any private or local funds received for reimbursements of third party damages that are in excess of the motor vehicle account--private/local appropriation.

(4) $2,000,000 of the motor vehicle account--federal appropriation is for unanticipated federal funds that may be received during the 2009-11 fiscal biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(5) The department may incur costs related to the maintenance of the decorative lights on the Tacoma Narrows bridge only if:

(a) The nonprofit corporation, narrows bridge lights organization, maintains an account balance sufficient to reimburse the department for all costs; and

(b) The department is reimbursed from the narrows bridge lights organization within three months from the date any maintenance work is performed. If the narrows bridge lights

organization is unable to reimburse the department for any future costs incurred, the lights must be removed at the expense of the narrows bridge lights organization subject to the terms of the contract.

(6) The department may work with the department of corrections to utilize corrections crews for the purposes of litter pickup on state highways.

(7) $650,000 of the motor vehicle account--state appropriation is provided solely for increased asphalt costs. If Senate Bill No. 5976 is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(8) $16,800,000 of the motor vehicle account--state appropriation is provided solely for the high priority maintenance backlog. Addressing the maintenance backlog must result in increased levels of service.

(9) The department shall provide a cost-benefit analysis to the house and senate transportation committees by January 15, 2010, on replacing all illuminated guide signs in the state with a super high efficiency, retroflective sheeting for optimal performance and sign illumination to be completed by June 30, 2014. The report shall include an update on replacements from illuminated guide signs with a super high efficiency, retroflective sheeting that have occurred since January 15, 2010.

(10) $12,500,000 of the water pollution account--state appropriation is provided solely for the department's compliance with its national pollution discharge elimination system permit, consistent with the purposes described in Substitute House Bill No. 1614, addressing petroleum pollution in storm water.

NEW SECTION. **Sec. 218. FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q--OPERATING**

Motor Vehicle Account--State Appropriation. $51,353,000
Motor Vehicle Account--Federal Appropriation. . . . $2,050,000
Motor Vehicle Account--Private/Local Appropriation. $127,000
State Route Number 520 Corridor Account--State Appropriation. $88,000
TOTAL APPROPRIATION. $53,618,000

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

(1) $2,400,000 of the motor vehicle account--state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. By September 1st of each even-numbered year, the department shall provide a report to the legislature listing all low-cost enhancement projects prioritized on a statewide rather than regional basis completed in the prior year.

(2) The department, in consultation with the Washington state patrol, may continue a pilot program for the patrol to issue infractions based on information from automated traffic safety cameras in roadway construction zones on state highways when workers are present. The department shall use the following guidelines to administer the program:

(a) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle;

(b) The department shall plainly mark the locations where the automated traffic safety cameras are used by placing signs on locations that clearly indicate to a driver that he or she is entering a roadway construction zone where traffic laws are enforced by an automated traffic safety camera;

(c) Notices of infractions must be mailed to the registered owner of a vehicle within fourteen days of the infraction occurring;

(d) The owner of the vehicle is not responsible for the violation if the owner of the vehicle, within fourteen days of receiving notification of the violation, mails to the patrol, a declaration under penalty of perjury, stating that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner, or any other extenuating circumstances;

(e) For purposes of the 2009-11 fiscal biennium pilot program, infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras must be processed in the same manner as parking infractions for the purposes of RCW 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3). However, the amount of the fine issued under this subsection (2) for an infraction generated through the use of an automated traffic safety camera is one hundred thirty-seven dollars. The court shall remit thirty-two dollars of the fine to the state treasurer for deposit into the state patrol highway account; and

(f) If a notice of infraction is sent to the registered owner and the registered owner is a rental car business, the infraction must be dismissed against the business if it mails to the patrol, within fourteen days of receiving the notice, a declaration under penalty of perjury of the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred. If the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred, the business must sign a declaration under penalty of perjury to this effect. The declaration must be mailed to the patrol within fourteen days of receiving the notice of traffic infraction. Timely mailing of this declaration to the issuing agency relieves a rental car business of any liability under this section for the notice of infraction. A declaration form suitable for this purpose must be included with each automated traffic infraction notice issued, along with instructions for its completion and use.

(3) The department shall implement a pilot project to evaluate the benefits of using electronic traffic flagging devices. Electronic traffic flagging devices must be tested by the department at multiple sites and reviewed for efficiency and safety. The department shall report to the transportation committees of the legislature on the best use and practices involving electronic traffic flagging devices, including recommendations for future use, by June 30, 2010.

(4) $88,000 of the state route number 520 corridor account is provided solely for costs directly related to tolling the state route number 520 floating bridge.

NEW SECTION. **Sec. 219. FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION MANAGEMENT AND SUPPORT--PROGRAM S**

Motor Vehicle Account--State Appropriation. $29,389,000
Motor Vehicle Account--Federal Appropriation. $30,000
Multimodal Transportation Account--State Appropriation. $973,000
State Route Number 520 Corridor Account--State Appropriation. $801,000
TOTAL APPROPRIATION. $31,193,000

The appropriations in this section are subject to the following conditions and limitations: $801,000 of the state route number 520 corridor account is provided solely for costs directly related to tolling the state route number 520 floating bridge.

NEW SECTION. **Sec. 220. FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION PLANNING, DATA, AND RESEARCH--PROGRAM T**

Motor Vehicle Account--State Appropriation. $26,470,000
Motor Vehicle Account--Federal Appropriation. . . $19,116,000
Multimodal Transportation Account--State Appropriation. $696,000
Multimodal Transportation Account--Federal Appropriation. $2,809,000
Multimodal Transportation Account--Private/Local Appropriation. $100,000
TOTAL APPROPRIATION. $49,191,000

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

(1) $150,000 of the motor vehicle account--federal appropriation is provided solely for the costs to develop an electronic map-based computer application that will enable law enforcement officers and others to more easily locate collisions and other incidents in the field.

(2) The department shall, to the greatest extent practicable, maximize the use of recycled concrete and asphalt on road construction and preservation projects. The department shall report to the joint transportation committee by December 1, 2010, regarding the use of recycled concrete and asphalt. The report must include, at a minimum, how much recycled concrete and asphalt was used and the resulting cost savings to the state.

(3) $600,000 of the motor vehicle account--state appropriation is provided solely for a diesel multiple unit feasibility and initial planning study. The study must evaluate potential service on the Stampede Pass line from Maple Valley to Auburn via Covington. The study must evaluate the potential demand for service, the business model and capital needs for launching and running the line, and the need for improvements in switching, signaling, and tracking. A report on the study must be submitted to the legislature by June 30, 2010.

(4) $400,000 of the motor vehicle account--state appropriation is provided solely for a state route number 2 development plan as described in Substitute House Bill No. 1575.

(5) $400,000 of the motor vehicle account--state appropriation is provided solely for a study of the use of tolls to help fund future capacity and connection improvements on state route number 167 and state route number 509. A report on the study must be submitted to the house of representatives and senate transportation committees by September 30, 2010.

(6) $243,000 of the motor vehicle account--state appropriation and $81,000 of the motor vehicle account--federal appropriation are provided solely for the development of a freight database to help guide freight investment decisions and track project effectiveness. The database must be based on truck movement tracked through geographic information system technology. TransNow shall contribute additional federal funds that are not appropriated in this act. The department shall work with the freight mobility strategic investment board to implement this database.

NEW SECTION. **Sec. 221. FOR THE DEPARTMENT OF TRANSPORTATION--CHARGES FROM OTHER AGENCIES--PROGRAM U**

Motor Vehicle Account--State Appropriation. $87,331,000
Motor Vehicle Account--Federal Appropriation. $400,000
Multimodal Transportation Account--State Appropriation
. . . . . $561,000
TOTAL APPROPRIATION. $88,292,000

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

(1) The office of financial management must provide a detailed accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.

(2) Payments in this section represent charges from other state agencies to the department of transportation.

(a) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT
DIVISION OF RISK MANAGEMENT FEES. $1,639,000

(b) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE
AUDITOR. $937,000

(c) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF GENERAL
ADMINISTRATION. $6,060,000

(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF
PERSONNEL. $6,347,000

(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION. $44,418,000

(f) FOR ARCHIVES AND RECORDS MANAGEMENT
. . . . . $623,000

(g) FOR OFFICE OF MINORITIES AND WOMEN BUSINESS
ENTERPRISES. $1,008,000

(h) FOR USE OF FINANCIAL AND REPORTING SYSTEMS
PROVIDED BY THE OFFICE OF FINANCIAL MANAGEMENT. $1,143,000

(i) FOR POLICY AND SYSTEM ASSISTANCE FROM THE
DEPARTMENT OF INFORMATION SERVICES.. $1,477,000

(j) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY
GENERAL'S OFFICE. $8,526,000

(k) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY
GENERAL'S OFFICE FOR THE SECOND PHASE OF THE BOLDT
LITIGATION. $672,000

NEW SECTION. **Sec. 222. FOR THE DEPARTMENT OF TRANSPORTATION--PUBLIC TRANSPORTATION--PROGRAM V**

Regional Mobility Grant Program Account--State
Appropriation.. . . . . $36,208,000
Multimodal Transportation Account--State
Appropriation.. . . . . $78,845,000
Multimodal Transportation Account--Federal
Appropriation.. . . . . $2,582,000
Multimodal Transportation Account--Private/Local
Appropriation.. . . . . $1,027,000
TOTAL APPROPRIATION. . . . $118,662,000

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

(1) $26,000,000 of the multimodal transportation account--state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) $6,000,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) $20,000,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2007 as reported in the "Summary of Public Transportation - 2007" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

(2) Funds are provided for the rural mobility grant program as follows:

(a) $9,500,000 of the multimodal transportation account--state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the "Summary of Public Transportation - 2007" published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) $9,500,000 of the multimodal transportation account--state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(c) $1,000,000 of the multimodal transportation account--state appropriation is provided solely for vanpool grants to rural transit agencies to cover the capital cost of adding vans. The grants must be administered under the same rules and criteria as the statewide vanpool grant program.

(3) $11,600,000 of the multimodal transportation account--state appropriation is provided solely for a statewide vanpool grant program for public transit agencies to cover the capital costs of vans. At least $3,600,000 of this amount must be used for vanpool grants in congested corridors in King, Pierce, Snohomish, Thurston, Clark, and Spokane counties.

(4) $500,000 of the multimodal transportation account--state appropriation is provided solely to expand park and ride lot

capacity through short-term lease agreements and relocation incentives for carpools and vanpools.

(5)(a) $2,500,000 of the multimodal transportation account--state appropriation is provided solely for grants to cities and counties to expand the commute trip reduction program established in RCW 70.94.521 through 70.94.555 to: (i) Increase voluntary participation by medium-sized employers (fifty to one hundred employees) in affected urban growth areas; and (ii) provide state technical support for the expanded program. The commute trip reduction board shall establish criteria for grants and statewide trip reduction goals for medium-sized employers, and report biennially on achievement of the goals as part of the board's legislative report.

(b) $2,500,000 of the multimodal transportation account--state appropriation is provided solely for: (i) Grants to local governments primarily for small employers (under fifty employees) pursuant to the provisions for growth and transportation efficiency centers established under RCW 70.94.521 through 70.94.555; (ii) state technical support; and (iii) the measurement of the effectiveness of the program.

(6) $400,000 of the multimodal transportation account--state appropriation is provided solely for a grant for a flexible carpooling pilot project program to be administered and monitored by the department. Funds are appropriated for one time only. The pilot project program must: Test and implement at least one flexible carpooling system in a high-volume commuter area that enables carpooling without prearrangement; utilize technologies that, among other things, allow for transfer of ride credits between participants; and be a membership system that involves prescreening to ensure safety of the participants. The program must include a pilot project that targets commuter traffic on the state route number 520 bridge. The department shall submit to the legislature by December 2010 a report on the program results and any recommendations for additional flexible carpooling programs.

(7) $3,317,808 of the multimodal transportation account--state appropriation and $21,248,089 of the regional mobility grant program account--state appropriation are reappropriated and provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2007-B, as developed April 20, 2007; LEAP Transportation Document 2006-D, as developed March 8, 2006; or as selected by the legislature from the priority list to be submitted by the department in January 2009. Any project that has been awarded funds but has not reported activity within one year of the grant award must be reviewed by the department to determine whether the grant award should be terminated. If the grant award is terminated, the funds lapse. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule.

(8) $14,959,600 of the regional mobility grant program account--state appropriation is provided solely for the regional mobility grant projects identified in LEAP Transportation Document 2009-B, as developed March 30, 2009. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any remaining funds available to the office of transit mobility must be used only to fund projects identified in LEAP Transportation Document 2009-B, as developed March 30, 2009. The department shall provide annual status reports on December 15, 2009, and December 15, 2010, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants. It is the intent of the legislature to appropriate funds through the regional mobility grant program only for projects that will be completed on schedule.

(9) $80,000 of the multimodal transportation account--state appropriation is provided solely to the department of transportation to distribute for implementation of the work group related to federal requirements in section 1, chapter . . . (Engrossed Substitute House Bill No. 2072), Laws of 2009 (special needs transportation). If Engrossed Substitute House Bill No. 2072 is not enacted by June 30, 2009, the amount provided in this section shall lapse.

NEW SECTION. **Sec. 223. FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X**

Puget Sound Ferry Operations Account--State Appropriation.. . . . . $404,720,000

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

(1) $52,463,000 of the Puget Sound ferry operations account--state appropriation is provided solely for auto ferry vessel operating fuel in the 2009-11 fiscal biennium. Any expenditures for fuel hedging payments may be considered vessel operating fuel payments.

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

(3) If the Washington state ferries considers implementing a fuel surcharge, they must first submit an analysis and business plan to the office of financial management and either the joint transportation committee or the transportation committees of the legislature. The analysis must include an evaluation of other cost savings and fuel price stabilization strategies that would be implemented before the imposition of a fuel surcharge.

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

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

(6) The Washington state ferries shall analyze operational solutions to enhance service on the Bremerton to Seattle ferry run. The Washington state ferries shall report their analysis to the transportation committees of the legislature by December 1, 2009.

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

(8) $8,000,000 of the Puget Sound ferry operations account--state appropriation is to be placed in unallotted status until the office of financial management, after consultation with the house of representatives and senate transportation committees, has approved the rates and conditions of commercial insurance purchased for ferry assets.

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 224. FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--OPERATING**

Multimodal Transportation Account--State Appropriation.. . . . . $34,933,000

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

(1) $29,091,000 of the multimodal transportation account--state appropriation is provided solely for the Amtrak service contract and Talgo maintenance contract associated with providing and maintaining the state-supported passenger rail service. Upon completion of the rail platform project in the city of Stanwood, the department shall provide daily Amtrak Cascades service to the city.

(2) Amtrak Cascade runs may not be eliminated.

(3) The department shall begin planning for a third roundtrip Cascades train between Seattle and Vancouver, B.C. by 2010.

NEW SECTION. **Sec. 225. FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--OPERATING**

Motor Vehicle Account--State Appropriation. $8,739,000
Motor Vehicle Account--Federal Appropriation. . . . $2,567,000
TOTAL APPROPRIATION. $11,306,000

TRANSPORTATION AGENCIES--CAPITAL

NEW SECTION. **Sec. 301. FOR THE WASHINGTON STATE PATROL**

State Patrol Highway Account--State Appropriation. $3,126,000

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

(1) $1,626,000 of the state patrol highway account--state appropriation is provided solely for the following minor works projects: $450,000 for Shelton training academy roofs; $150,000 for HVAC control replacements; $168,000 for upgrades to scales; $50,000 for Bellevue electrical equipment upgrades; $90,000 for South King detachment window replacement; $200,000 for the replacement of the Naselle radio tower, generator shelter, and fence; $200,000 for unforeseen emergency repairs; and $318,000 for the Shelton training academy drive course/skid pan repair.

(2) $1,500,000 of the state patrol highway account--state appropriation is provided solely for the Shelton academy of the Washington state patrol and is contingent upon a signed agreement between the city of Shelton, the department of corrections, and the Washington state patrol that provides for an on-going payment to these three entities, based on their percentage of the total investment in the project, from all hookup fees, late comer fees, LIDS, and all other initial fees collected for the new waste water treatment lines, waste water plants, water lines, and water systems.

NEW SECTION. **Sec. 302. FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account--State Appropriation. $51,000,000
Motor Vehicle Account--State Appropriation. $1,048,000
County Arterial Preservation Account--State Appropriation.. . . . . $31,400,000
TOTAL APPROPRIATION. $83,448,000

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

(1) $1,048,000 of the motor vehicle account--state appropriation may be used for county ferry projects as developed pursuant to RCW 47.56.725(4).

(2) The appropriations in this section include funding to counties to assist them in efforts to recover from federally declared emergencies, by providing capitalization advances and local match for federal emergency funding as determined by the county road administration board. The county road administration board shall specifically identify any such selected projects and shall include information concerning such selected projects in its next annual report to the legislature.

NEW SECTION. **Sec. 303. FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Small City Pavement and Sidewalk Account--State Appropriation.. . . . . $5,779,000
Urban Arterial Trust Account--State Appropriation $122,400,000
Transportation Improvement Account--State Appropriation.. . . . . $85,643,000
TOTAL APPROPRIATION. . . . $213,822,000

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

(1) The transportation improvement account--state appropriation includes up to $7,143,000 in proceeds from the sale of bonds authorized in RCW 47.26.500.

(2) The urban arterial trust account--state appropriation includes up to $15,000,000 in proceeds from the sale of bonds authorized in RCW 47.26.420.

NEW SECTION. **Sec. 304. FOR THE DEPARTMENT OF TRANSPORTATION.** As part of its budget submittal for the 2011-13 fiscal biennium, the department shall provide an update to the report provided to the legislature in 2008 that:

(1) Compares the original project cost estimates approved in the 2003 and 2005 project lists to the completed cost of the project, or the most recent legislatively approved budget and total project costs for projects not yet completed;

(2) Identifies highway projects that may be reduced in scope and still achieve a functional benefit;

(3) Identifies highway projects that have experienced scope increases and that can be reduced in scope;

(4) Identifies highway projects that have lost significant local or regional contributions that were essential to completing the project; and

(5) Identifies contingency amounts allocated to projects.

NEW SECTION. **Sec. 305. FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)--CAPITAL**

Motor Vehicle Account--State Appropriation. $3,757,000

The appropriation in this section is subject to the following conditions and limitations: $290,000 of the motor vehicle account--state appropriation is provided solely for reconstruction of the Wandermere facility that was destroyed in the 2008-09 winter storms.

NEW SECTION. **Sec. 306. FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I**

Multimodal Transportation Account--State Appropriation.. . . . . $1,000
Transportation Partnership Account--State Appropriation.. . . . . $1,599,350,000
Motor Vehicle Account--State Appropriation. . . . $107,339,000
Motor Vehicle Account--Federal Appropriation. . $404,530,000
Motor Vehicle Account--Private/Local Appropriation.. . . . . $65,494,000
Special Category C Account--State Appropriation.. $24,549,000
Transportation 2003 Account (Nickel Account)--State Appropriation.. . . . . $750,085,000
Freight Mobility Multimodal Account--State Appropriation.. . . . . $4,422,000
Tacoma Narrows Toll Bridge Account--State Appropriation $788,000
State Route Number 520 Corridor Account--State Appropriation.. . . . . $270,000,000
TOTAL APPROPRIATION. . $3,226,558,000

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

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2009-1, Highway Improvement Program (I), as developed March 30, 2009. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) As a result of economic changes since the initial development of the improvement program budget for the 2009-11 fiscal biennium, the department has received bids on construction contracts over the last several months that are favorable with respect to current estimates of project costs. National economic forecasts indicate that inflationary pressures are likely to remain lower than previously expected for the next several years. As a result, the nominal project cost totals shown in LEAP Transportation Document 2009-1 in aggregate for the 2009-11 fiscal biennium and the 2011-13 fiscal biennium are expected to exceed the likely amount necessary to deliver the projects listed within those biennia by fifty million dollars in each biennium. The appropriations provided in this section for the projects in those biennia are fifty million dollars less than the aggregate total of project costs listed. It is the intent of the legislature that the department shall deliver the projects listed in LEAP Transportation Document 2009-1 within the time, scope, and budgets identified in that document, provided that the prices of commodities used in transportation projects do not differ significantly from those assumed for the 2009-11 and 2011-13 fiscal biennia in the March 2009 forecast of the economic and revenue forecast council.

(3) $62,874,000 of the transportation partnership account--state appropriation and $270,000,000 of the state route number 520 corridor account--state appropriation are provided solely for replacement of the state route number 520 bridge for projects for which the designs are agreed upon. The department shall submit an application for the eastside transit and HOV project to the supplemental discretionary grant program for regionally significant projects as provided in the American Recovery and Reinvestment Act of 2009. If federal stimulus funds are received, an equivalent amount of the funds already identified for this project must be earmarked for the construction of the projects on the west side of the state route number 520 corridor. Eastside state route number 520 improvements shall be designed and constructed to accommodate a future full interchange at 124th Avenue Northeast. Concurrent with the eastside transit and HOV project, the department shall conduct engineering design of a full interchange at 124th Avenue Northeast.

(4) As required under section 305(6), chapter 518, Laws of 2007, the department shall report by January 2010 to the transportation committees of the legislature on the findings of the King county noise reduction solutions pilot project.

(5) Funding allocated for mitigation costs is provided solely for the purpose of project impact mitigation, and shall not be used to develop or otherwise participate in the environmental assessment process.

(6) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P including, but not limited to, the SR 518, SR 520, Columbia river crossing, and Alaskan Way viaduct projects.

(7) The department shall, on a quarterly basis beginning July 1, 2009, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account and transportation 2003 account (nickel account) projects relating to bridge rail, guard rail, fish passage barrier removal, and roadside safety projects should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements must include, but not be limited to, project scope, schedule, and costs. For new construction contracts valued at fifteen million dollars or more, the department must also use an earned value method of project monitoring. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(8) The transportation 2003 account (nickel account)--state appropriation includes up to $704,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

(9) The transportation partnership account--state appropriation includes up to $1,261,656,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

(10) The special category C account--state appropriation includes up to $22,127,000 in proceeds from the sale of bonds authorized in RCW 47.10.812.

(11) The motor vehicle account--state appropriation includes up to $55,900,000 in proceeds from the sale of bonds authorized in RCW 47.10.843.

(12) The department must prepare a tolling study for the Columbia river crossing project. While conducting the study, the department must coordinate with the Oregon department of transportation to perform the following activities:

(a) Evaluate the potential diversion of traffic from Interstate 5 to other parts of the transportation system when tolls are implemented on Interstate 5 in the vicinity of the Columbia river;

(b) Evaluate the most advanced tolling technology to maintain travel time speed and reliability for users of the Interstate 5 bridge;

(c) Evaluate available active traffic management technology to determine the most effective options for technology that could maintain travel time speed and reliability on the Interstate 5 bridge;

(d) Confer with the project sponsor's council, as well as local and regional governing bodies adjacent to the Interstate 5 Columbia river crossing corridor and the Interstate 205 corridor regarding the implementation of tolls, the impacts that the implementation of tolls might have on the operation of the corridors, the diversion of traffic to local streets, and potential mitigation measures;

(e) Regularly report to the Washington transportation commission regarding the progress of the study for the purpose of guiding the commission's potential toll setting on the facility;

(f) Research and evaluate options for a potential toll-setting framework between the Oregon and Washington transportation commissions;

(g) Conduct public work sessions and open houses to provide information to citizens, including users of the bridge

and business and freight interests, regarding implementation of tolls on the Interstate 5 and to solicit citizen views on the following items:

(i) Funding a portion of the Columbia river crossing project with tolls;

(ii) Implementing variable tolling as a way to reduce congestion on the facility; and

(iii) Tolling Interstate 205 separately as a management tool for the broader state and regional transportation system; and

(h) Provide a report to the governor and the legislature by January 2010.

(13)(a) By January 2010, the department must prepare a traffic and revenue study for Interstate 405 in King county and Snohomish county that includes funding for improvements and high occupancy toll lanes, as defined in RCW 47.56.401, for traffic management. The department must develop a plan to operate up to two high occupancy toll lanes in each direction on Interstate 405.

(b) For the facility listed in (a) of this subsection, the department must:

(i) Confer with the mayors and city councils of jurisdictions in the vicinity of the project regarding the implementation of high occupancy toll lanes and the impacts that the implementation of these high occupancy toll lanes might have on the operation of the corridor and adjacent local streets;

(ii) Conduct public work sessions and open houses to provide information to citizens regarding implementation of high occupancy toll lanes and to solicit citizen views; and

(iii) Provide a report to the governor and the legislature by January 2010.

(14) $9,199,985 of the motor vehicle account--state appropriation is provided solely for project 100224I, as identified in the LEAP transportation document in subsection (1) of this section: US 2 high priority safety project. Expenditure of these funds is for safety projects on state route number 2 between Skykomish and Gold Bar, which may include median rumble strips, traffic cameras, and electronic message signs.

(15) Expenditures for the state route number 99 Alaskan Way viaduct replacement project must be made in conformance with Engrossed Substitute Senate Bill No. 5768.

(16) The department shall conduct a public outreach process to identify and respond to community concerns regarding the Belfair bypass. The process must include representatives from Mason county, the legislature, area businesses, and community members. The department shall use this process to consider and develop design alternatives that alter the project's scope so that the community's needs are met within the project budget. The department shall provide a report on the process and outcomes to the legislature by June 30, 2010.

(17) The legislature is committed to the timely completion of R8A which supports the construction of sound transit's east link. Following the completion of the independent analysis of the methodologies to value the reversible lanes on Interstate 90 which may be used for high capacity transit as directed in section 204 of this act, the department shall complete the process of negotiations with sound transit. Such agreement shall be completed no later than December 1, 2009.

(18) $6,000,000 of the motor vehicle account--state appropriation is provided solely for the design and construction of a new interchange between state route number 195 and Cheney-Spokane Road. It is the intent of the legislature that an additional $6,500,000 will be provided in the 2011-13 omnibus transportation appropriations act to complete this project. As a first priority, the department shall add a right turn lane to improve visibility and traffic flow at the intersection of state route number 195 and Cheney-Spokane Road.

(19) $846,700 of the motor vehicle account--federal appropriation and $17,280 of the motor vehicle account--state appropriation are provided solely for the Westview school noise wall.

(20) $1,360 of the motor vehicle account--state appropriation and $35,786 of the motor vehicle account--federal appropriation are provided solely for interchange design and planning work on US 12 at A Street and Tank Farm Road.

(21) $20,011,125 of the transportation partnership account--state appropriation, $2,550 of the motor vehicle account--state appropriation, $30,003,473 of the motor vehicle account--private/local appropriation, and $1,482,066 of the motor vehicle account--federal appropriation is provided solely for the I-5/Columbia river crossing/Vancouver project. The funding described in this subsection includes a $30,003,473 contribution from the state of Oregon.

(22) It is important that the public and policymakers have accurate and timely access to information related to the Alaskan Way viaduct replacement project as it proceeds to, and during, the construction of all aspects of the project including, but not limited to, information regarding costs, schedules, contracts, project status, and neighborhood impacts. Therefore, it is the intent of the legislature that the state, city, and county departments of transportation establish a single source of accountability for integration, coordination, tracking, and information of all requisite components of the replacement project, which must include, at a minimum:

(a) A master schedule of all subprojects included in the full replacement project or program; and

(b) A single point of contact for the public, media, stakeholders, and other interested parties.

(23) The state route number 520 corridor account--state appropriation includes up to $270,000,000 in proceeds from the sale of bonds authorized in House Bill No. 2326. If House Bill No. 2326 is not enacted by June 30, 2009, the amount provided in this subsection shall lapse.

(24) The department shall evaluate a potential deep bore culvert for the state route number 305/Bjorgen creek fish barrier project identified as project 330514 A in LEAP Transportation Document ALL PROJECTS 2009-2, as developed March 30, 2009. The department shall evaluate whether a deep bore culvert will be a less costly alternative than a traditional culvert since a traditional culvert would require extensive road detours during construction.

(25) $62,069,026 of the transportation partnership account--state appropriation, $113,044,224 of the transportation 2003 account (nickel account)--state appropriation, $1,411 of the freight mobility multimodal account--state appropriation, $181,524 of the motor vehicle account--private/local appropriation, and $62,318,460 of the motor vehicle account--federal appropriation are provided solely for project 300504A, the I-5/Tacoma HOV Improvements project as indicated in the LEAP transportation document referenced in subsection (1) of this section.

(26) $2,297,110 of the transportation partnership account--state appropriation is provided solely for project 330215A, the SR 302/Creviston to Purdy Vicinity project as indicated in the LEAP transportation document referenced in subsection (1) of this section.

(27) $1,500,000 of the transportation 2003 account (nickel account)--state appropriation and $590,737 of the motor vehicle account--federal appropriation are provided solely for project 370401A, the state route number 704/cross base highway--new alignment project as indicated in the LEAP transportation document referenced in subsection (1) of this section.

(28) $13,977,496 of the transportation partnership account--state appropriation is a reappropriation provided solely for project 850901F, as identified in the LEAP transportation document in subsection (1) of this section: SR 509/I-5 to Sea-Tac Freight & Congestion Relief. However, this appropriation shall be reduced to reflect expenditures previously made during the 2007-09 fiscal biennium.

(29) $10,600,000 of the transportation partnership account--state appropriation is provided solely for the Interstate 90 Two Way Transit and HOV Improvement--Stage 2 and 3 project. Funds shall be used solely for preliminary engineering on stages 2 and 3 of this project.

(30) Eastside state route number 520 improvements shall be designed and constructed to accommodate a future eastbound slip ramp in the vicinity of state route number 520 and the 148th Avenue Northeast interchange. Concurrent with the eastside transit and HOV project, the department shall conduct engineering design and analysis of an eastbound slip ramp in the

vicinity of state route number 520 eastbound and 148th Avenue Northeast.

NEW SECTION. **Sec. 307. FOR THE DEPARTMENT OF TRANSPORTATION--PRESERVATION--PROGRAM P**

Transportation Partnership Account--State Appropriation.. . . . . $107,377,000
Motor Vehicle Account--State Appropriation. . . . $111,009,000
Motor Vehicle Account--Federal Appropriation. . $514,767,000
Motor Vehicle Account--Private/Local Appropriation $6,417,000
Transportation 2003 Account (Nickel Account)--State Appropriation.. . . . . $7,237,000
Puyallup Tribal Settlement Account--State Appropriation.. . . . . $6,500,000
TOTAL APPROPRIATION. . . . $753,307,000

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

(1) The entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2009-1, Highway Preservation Program (P), as developed March 30, 2009. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) $544,639 of the motor vehicle account--federal appropriation and $280,361 of the motor vehicle account--state appropriation are provided solely for project 602110F, as identified in the LEAP transportation document in subsection (1) of this section: SR 21/Keller ferry boat - replace ferry boat. The Keller ferry boat replacement must consist of a tug and barge.

(3) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P.

(4) $6,500,000 of the Puyallup tribal settlement account--state appropriation is provided solely for mitigation costs associated with the Murray Morgan/11th Street bridge demolition. The department may negotiate with the city of Tacoma for the purpose of transferring ownership of the Murray Morgan/11th Street bridge to the city. If the city agrees to accept ownership of the bridge, the department may use the Puyallup tribal settlement account appropriation and other appropriated funds for bridge rehabilitation, bridge replacement, bridge demolition, and related mitigation. The department's participation, including prior expenditures, may not exceed $39,953,000. Funds may not be expended unless the city of Tacoma agrees to take ownership of the bridge in its entirety and provides that the payment of these funds extinguishes any real or implied agreements regarding future bridge expenditures.

(5) The department shall, on a quarterly basis beginning July 1, 2009, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account projects relating to seismic bridges should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements must include, but not be limited to, project scope, schedule, and costs. For new construction contracts valued at fifteen million dollars or more, the department must also use an earned value method of project monitoring. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(6) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(7) Within existing funds and resources, the department shall conduct an analysis and produce a report on state highway pavement replacement needs, level of investment, timing, and strategies for the next ten years. The department shall include the following in the report:

(a) For asphalt and chip seal: (i) The current backlog of "black" pavement preservation projects; (ii) the level of investment needed and schedule to reduce or eliminate the backlog and resume the lowest life-cycle cost to replace the highway lane miles; and (iii) strategies for addressing the recent rapid escalation of asphalt prices and using alternatives to hot mix asphalt;

(b) For concrete or "white" pavement: (i) Identification of concrete rehabilitation and replacement needs in the next ten years; and (ii) the level of investment, schedule, and strategies for rehabilitation and replacement, including dowel-bar retrofit, selected panel replacement, and full replacement; and

(c) For all types of pavement: Criteria for determining which type of pavement will be used for specific projects, including annualized cost per mile, traffic volume per lane mile, and heavy truck traffic volume per lane mile.

The department shall submit the report to the office of financial management and the transportation committees of the legislature by December 31, 2009, in order to inform the development of the 2011-13 omnibus transportation appropriations act.

(8) $1,722 of the motor vehicle account--state appropriation, $9,608,115 of the motor vehicle account--federal appropriation, and $272,141 of the transportation partnership account--state appropriation are provided solely for the Hood Canal bridge project.

NEW SECTION. **Sec. 308. FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q--CAPITAL**

Motor Vehicle Account--State Appropriation. $6,394,000
Motor Vehicle Account--Federal Appropriation. . . . $9,262,000
TOTAL APPROPRIATION. $15,656,000

NEW SECTION. **Sec. 309. FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W**

Puget Sound Capital Construction Account--State Appropriation.. . . . . $125,775,000
Puget Sound Capital Construction Account--Federal Appropriation.. . . . . $38,675,000
Puget Sound Capital Construction Account--Local Appropriation.. . . . . $8,492,000
Transportation 2003 Account (Nickel Account)--State Appropriation.. . . . . $57,336,350
Transportation Partnership Account--State Appropriation.. . . . . $64,784,000
Multimodal Transportation Account--State Appropriation $170,000
TOTAL APPROPRIATION. . . . $297,232,350

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

(1) $129,566,000 of the Puget Sound capital construction account--state appropriation, $38,675,000 of the Puget Sound capital construction account--federal appropriation, $64,784,000 of the transportation partnership account--state appropriation, $67,931,000 of the transportation 2003 account (nickel account)--state appropriation, and $170,000 of the multimodal transportation account--state appropriation are provided solely for ferry capital projects, project support, and administration as listed in LEAP Transportation Document ALL PROJECTS 2009-2, Ferries Construction Program (W), as developed March 30, 2009.

(2) $46,436,350 of the transportation 2003 account (nickel account)--state appropriation and $63,100,000 of the transportation partnership account--state appropriation are provided solely for the acquisition of three new Island Homes class ferry vessels subject to the conditions and limitations in

RCW 47.56.780, the first two of which shall be used to restore service on the Port Townsend-Keystone route. The department may add additional passenger capacity to one of these vessels to make it more flexible within the system in the future, if doing so does not require additional staffing on the vessel.

(3) $12,900,000 of the transportation 2003 account (nickel account)--state appropriation is provided solely for the acquisition of two new 144-auto capacity ferry vessels. Cost savings from the following initiatives are included in the funding of these vessels: Washington state ferries' review and update of their vessel life-cycle cost model as required by this section, and the department of transportation's implementation of technology efficiencies as required by section 602 of this act.

(4) It is the intent of the legislature that the ferry vessel construction and future preservation costs associated with the newly constructed vessels and according to the procurement schedule as outlined in this subsection be funded with a total of $537,255,595 over sixteen years, beginning with the 2009-11 fiscal biennium.

(5) $6,300,000 of the Puget Sound capital construction account--state appropriation is provided solely for emergency capital costs.

(6) The Anacortes terminal may be replaced if additional federal funds are sought and received by the department. If federal funds received are not sufficient to replace the terminal, only usable, discrete phases of the project, up to the amount of federal funds received, may be constructed with the funds.

(7) $247,000 of the Puget Sound capital construction account--state appropriation is provided solely for the department to update the vessel life-cycle cost model by December 31, 2009.

(8) $3,965,000 of the Puget Sound capital construction account--state appropriation is provided solely for the following vessel projects: Waste heat recovery pilot project; steering gear ventilation pilot project; and a new propulsion system for the MV Yakima. Before beginning these projects, the Washington state ferries must ensure the vessels' out-of-service time does not negatively impact service to the system.

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

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

(11) The Washington state ferries shall review and adjust their capital program staffing levels to ensure staffing is at the most efficient level necessary to implement the capital program in the omnibus transportation appropriations act. The Washington state ferries shall report this review and adjustment to the office of financial management and the house and senate transportation committees of the legislature by July 2009.

(12) $3,763,000 of this appropriation is provided solely for the Washington state ferries to develop a reservation system. Of this amount, $3,118,000 shall be placed in unallotted status until the Washington state ferries develops a plan for a reservation system pilot program and the plan is reviewed by the office of financial management and either the joint transportation committee or the transportation committees of the legislature. This analysis must include an evaluation of the compatibility of the Washington state ferries' electronic fare system, proposed reservation system, and the implementation of smart card.

(13) The Washington state ferries shall review and update their vessel life-cycle cost model and report the results to the house of representatives and senate transportation committees of the legislature by December 1, 2009.

(14) The Washington state ferries shall review and update their vessel life-cycle cost model and report the results to the house of representatives and senate transportation committees of the legislature by December 1, 2009. This review will evaluate the impact of the planned out-of-service periods scheduled for each vessel on the ability of the overall system to deliver uninterrupted service and will assess the risk of service disruption from unscheduled maintenance or longer than planned maintenance periods.

NEW SECTION. **Sec. 310. FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--CAPITAL**

Essential Rail Assistance Account--State Appropriation $675,000
Transportation Infrastructure Account--State Appropriation. $13,100,000
Multimodal Transportation Account--State Appropriation. $97,610,000
Multimodal Transportation Account--Federal Appropriation. $16,054,000
Multimodal Transportation Account--Private/Local Appropriation. $81,000
TOTAL APPROPRIATION. . . . $127,520,000

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

(1)(a) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ALL PROJECTS 2009-2, Rail Capital Program (Y), as developed March 30, 2009. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(b)(i) Within the amounts provided in this section, $116,000 of the transportation infrastructure account--state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Ephrata for rehabilitation of a rail spur.

(ii) Within the amounts provided in this section, $1,200,000 of the transportation infrastructure account--state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Everett for a new rail track to connect a cement loading facility to the mainline.

(iii) Within the amounts provided in this section, $3,684,000 of the transportation infrastructure account--state appropriation is for a low-interest loan through the freight rail investment bank program to the Port of Quincy for construction of a rail loop.

(c)(i) Within the amounts provided in this section, $1,679,350 of the multimodal transportation account--state appropriation and $175,000 of the essential rail assistance account--state appropriation are for statewide - emergent freight rail assistance projects as follows: Port of Ephrata/Ephrata - additional spur rehabilitation (BIN 722710A) $362,746; Tacoma Rail/Tacoma - new refinery spur tracks (BIN 711010A) $420,000; CW Line/Lincoln County - grade crossing rehabilitation (BIN 700610A) $337,978; Clark County owned railroad/Vancouver - track rehabilitation (BIN 710110A) $366,813; Tacoma Rail/Tacoma - improved locomotive facility (BIN 711010B) $366,813.

(ii) Within the amounts provided in this section, $500,000 of the essential rail assistance account--state appropriation and $25,000 of the multimodal transportation account--state appropriation are for a statewide - emergent freight rail assistance project grant for the Tacoma Rail/Roy - new connection to BNSF and Yelm (BIN 711310A) project, provided that the grantee first executes a written instrument that imposes on the grantee the obligation to repay the grant within thirty days in the event that the grantee discontinues or significantly diminishes service along the line within a period of five years from the date that the grant is awarded.

(iii) Within the amounts provided in this section, $337,978 of the multimodal transportation account--state appropriation is for a statewide - emergent freight rail assistance project grant for the Lincoln County PDA/Creston - new rail spur (BIN 710510A) project, provided that the grantee first documents to the satisfaction of the department sufficient commitments from

the new shipper or shippers to locate in the publicly owned industrial park west of Creston to ensure that the net present value of the public benefits of the project is greater than the grant amount.

(d) $8,100,000 of the transportation infrastructure account--state appropriation is provided solely for grants to any intergovernmental entity or local rail district to which the department of transportation assigns the management and oversight responsibility for the business and economic development elements of existing operating leases on the Palouse River and Coulee City (PCC) rail lines. The PCC rail line system is made up of the CW, P&L, and PV Hooper rail lines. Business and economic development elements include such items as levels of service and business operating plans, but must not include the state's oversight of railroad regulatory compliance, rail infrastructure condition, or real property management issues. The PCC rail system must be managed in a self-sustaining manner and best efforts must be used to ensure that it does not require state capital or operating subsidy beyond the level of state funding expended on it to date. The assignment of the stated responsibilities to an intergovernmental entity or rail district must be on terms and conditions as the department of transportation and the intergovernmental entity or rail district mutually agree. The grant funds may be used only to refurbish the rail lines. It is the intent of the legislature to make the funds appropriated in this section available as grants to an intergovernmental entity or local rail district for the purposes stated in this section at least until June 30, 2012, and to reappropriate as necessary any portion of the appropriation in this section that is not used by June 30, 2011.

(2)(a) The department shall issue a call for projects for the freight rail investment bank program and the emergent freight rail assistance program, and shall evaluate the applications according to the cost benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. By November 1, 2010, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

(b) When the department identifies a prospective rail project that may have strategic significance for the state, or at the request of a proponent of a prospective rail project or a member of the legislature, the department shall evaluate the prospective project according to the cost benefit methodology developed during the 2008 interim using the legislative priorities specified in (c) of this subsection. The department shall report its cost benefit evaluation of the prospective rail project, as well as the department's best estimate of an appropriate construction schedule and total project costs, to the office of financial management and the transportation committees of the legislature.

(c) The legislative priorities to be used in the cost benefit methodology are, in order of relative importance:

(i) Economic, safety, or environmental advantages of freight movement by rail compared to alternative modes;

(ii) Self-sustaining economic development that creates family-wage jobs;

(iii) Preservation of transportation corridors that would otherwise be lost;

(iv) Increased access to efficient and cost-effective transport to market for Washington's agricultural and industrial products;

(v) Better integration and cooperation within the regional, national, and international systems of freight distribution; and

(vi) Mitigation of impacts of increased rail traffic on communities.

(3) The department is directed to seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in program Y.

(4) At the earliest possible date, the department shall apply, and assist ports and local jurisdictions in applying, for any federal funding that may be available for any projects that may qualify for such federal funding. State projects must be (a) currently identified on the project list referenced in subsection (1)(a) of this section or (b) projects for which no state match is required to complete the project. Local or port projects must not require additional state funding in order to complete the project, with the exception of (c) state funds currently appropriated for such project if currently identified on the project list referenced in subsection (1)(a) of this section or (d) potential grants awarded in the competitive grant process for the essential rail assistance program. If the department receives any federal funding, the department is authorized to obligate and spend the federal funds in accordance with federal law. To the extent permissible by federal law, federal funds may be used (e) in addition to state funds appropriated for projects currently identified on the project list referenced in subsection (1)(a) of this section in order to advance funding from future biennia for such project(s) or (f) in lieu of state funds; however, the state funds must be redirected within the rail capital program to advance funding for other projects currently identified on the project list referenced in subsection (1)(a) of this section. State funds may be redirected only upon consultation with the transportation committees of the legislature and the office of financial management, and approval by the director of the office of financial management. The department shall spend the federal funds before the state funds, and shall consult the office of financial management and the transportation committees of the legislature regarding project scope changes.

(5) The department shall provide quarterly reports to the office of financial management and the transportation committees of the legislature regarding applications that the department submits for federal funds, the status of such applications, and the status of projects identified on the list referenced in subsection (1)(a) of this section. The quarterly report regarding the status of projects identified on the list referenced in subsection (1)(a) of this section must be developed according to an earned value method of project monitoring.

(6) The multimodal transportation account--state appropriation includes up to $43,616,000 in proceeds from the sale of bonds authorized in RCW 47.10.867.

(7) When the balance of that portion of the miscellaneous program account apportioned to the department for the grain train program reaches $1,180,000, the department shall acquire twenty-nine additional grain train railcars.

NEW SECTION. **Sec. 311. FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--CAPITAL**

Highway Infrastructure Account--State Appropriation. $207,000
Highway Infrastructure Account--Federal Appropriation. $1,602,000
Freight Mobility Investment Account--State Appropriation. $13,048,000
Transportation Partnership Account--State Appropriation. $8,363,000
Motor Vehicle Account--State Appropriation. $11,745,000
Motor Vehicle Account--Federal Appropriation. . . $37,569,000
Freight Mobility Multimodal Account--State Appropriation. $13,918,000
Freight Mobility Multimodal Account--Local Appropriation. $3,135,000
Multimodal Transportation Account--Federal Appropriation. $2,098,000
Multimodal Transportation Account--State Appropriation. $23,340,000
Transportation 2003 Account (Nickel Account)--State Appropriation. $709,000
Passenger Ferry Account--State Appropriation. $2,879,000
TOTAL APPROPRIATION. . . . $118,613,000

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

(1) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists incorporated in this section. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection on a

quarterly basis via the transportation executive information system (TEIS).

(2) $2,729,000 of the passenger ferry account--state appropriation is provided solely for near and long-term costs of capital improvements in a business plan approved by the governor for passenger ferry service.

(3) $150,000 of the passenger ferry account--state appropriation is provided solely for the Port of Kingston for a one-time operating subsidy needed to retain a federal grant.

(4) $3,000,000 of the motor vehicle account--federal appropriation is provided solely for the Coal Creek parkway project (L1000025).

(5) The department shall seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(6) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(7) Federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the office of financial management and the transportation committees of the legislature by December 1, 2009, and December 1, 2010.

(8) The city of Winthrop may utilize a design-build process for the Winthrop bike path project. Of the amount appropriated in this section for this project, $500,000 of the multimodal transportation account--state appropriation is contingent upon the state receiving from the city of Winthrop $500,000 in federal funds awarded to the city of Winthrop by its local planning organization.

(9) $14,182,113 of the multimodal transportation account--state appropriation, $8,753,895 of the motor vehicle account--federal appropriation, and $4,000,000 of the transportation partnership account--state appropriation are provided solely for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in LEAP Transportation Document 2009-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 30, 2009, LEAP Transportation Document 2007-A, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed April 20, 2007, and LEAP Transportation Document 2006-B, pedestrian and bicycle safety program projects and safe routes to schools program projects, as developed March 8, 2006. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award must be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

(10) Except as provided otherwise in this section, the entire appropriations in this section are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ALL PROJECTS 2009-2, Local Program (Z), as developed March 30, 2009.

(11) For the 2009-11 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects managed by the freight mobility strategic investment board in order for the board to manage project spending and efficiently deliver all projects in the respective program.

(12) $913,386 of the motor vehicle account--state appropriation and $2,858,216 of the motor vehicle account--federal appropriation are provided solely for completion of the US 101 northeast peninsula safety rest area and associated roadway improvements east of Port Angeles at the Deer Park scenic view point. The department must surplus any right-of-way previously purchased for this project near Sequim. Approval to proceed with construction is contingent on surplus of previously purchased right-of-way. $865,000 of the motor vehicle account--state appropriation is to be placed into unallotted status until such time as the right-of-way sale is completed.

TRANSFERS AND DISTRIBUTIONS

NEW SECTION. **Sec. 401. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE**

Highway Bond Retirement Account Appropriation $693,602,000
Ferry Bond Retirement Account Appropriation. . . . $33,770,000
Transportation Improvement Board Bond Retirement Account--State Appropriation. $23,205,000
Nondebt-Limit Reimbursable Account Appropriation $17,282,000
Transportation Partnership Account--State Appropriation. $4,656,000
Motor Vehicle Account--State Appropriation. $658,000
Transportation 2003 Account (Nickel Account)--State Appropriation. $2,605,000
Special Category C Account--State Appropriation. . . . $82,000
Urban Arterial Trust Account--State Appropriation. . . . $56,000
Transportation Improvement Account--State Appropriation $26,000
Multimodal Transportation Account--State Appropriation $161,000
TOTAL APPROPRIATION. . . . $776,103,000

NEW SECTION. **Sec. 402. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES**

Transportation Partnership Account--State Appropriation $629,000
Motor Vehicle Account--State Appropriation. $89,000
Transportation 2003 Account (Nickel Account)--State Appropriation. $352,000
Special Category C Account--State Appropriation. . . . $11,000
Urban Arterial Trust Account--State Appropriation. . . . $8,000
Transportation Improvement Account--State Appropriation $4,000
Multimodal Transportation Account--State Appropriation $22,000
TOTAL APPROPRIATION. $1,115,000

NEW SECTION. **Sec. 403. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS**

Motor Vehicle Account--State Appropriation:
For transfer to the Puget Sound Capital Construction Account. $122,000,000

The department of transportation is authorized to sell up to $122,000,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

NEW SECTION. **Sec. 404. FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION**

Motor Vehicle Account Appropriation for

motor vehicle fuel tax distributions to cities and counties.. . . . . $488,843,000

NEW SECTION. **Sec. 405. FOR THE STATE TREASURER--TRANSFERS**

Motor Vehicle Account--State
Appropriation: For motor vehicle fuel tax refunds and statutory transfers. $1,310,279,000

NEW SECTION. **Sec. 406. FOR THE DEPARTMENT OF LICENSING--TRANSFERS**

Motor Vehicle Account--State
Appropriation: For motor vehicle fuel tax refunds and transfers. $129,178,000

NEW SECTION. **Sec. 407. FOR THE STATE TREASURER--ADMINISTRATIVE TRANSFERS**

(1) Tacoma Narrows Toll Bridge Account--State Appropriation: For transfer to the Motor Vehicle Account--State. $5,288,000

(2) Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Ferry Operations Account--State. $12,000,000

(3) Recreational Vehicle Account--State Appropriation: For transfer to the Motor Vehicle Account--State. $1,645,000

(4) License Plate Technology Account--State Appropriation: For transfer to the Motor Vehicle Account--State. $2,750,000

(5) Multimodal Transportation Account--State Appropriation: For transfer to the Puget Sound Ferry Operations Account--State. $20,000,000

(6) Waste Tire Removal Account--State Appropriation: For transfer to the Motor Vehicle Account--State. . . $5,000,000

(7) Highway Safety Account--State Appropriation: For transfer to the Multimodal Transportation Account--State. $15,000,000

(8) Department of Licensing Services Account--State Appropriation: For transfer to the Motor Vehicle Account--State. $1,500,000

(9) State Patrol Highway Account--State Appropriation: For transfer to the Motor Vehicle Account--State. . $10,000,000

(10) Motor Vehicle Account--State Appropriation: For transfer to the High Occupancy Toll Lanes Operations Account. $1,000,000

(11) Advanced Right-of-Way Account: For transfer to the Motor Vehicle Account--State. $14,000,000

(12) Regional Mobility Grant Program Account--State Appropriation: For transfer to the Multimodal Transportation Account--State. $30,000,000

(13) Multimodal Transportation Account--State Appropriation: For transfer to the Puget Sound Capital Construction Account--State. $1,500,000

The transfers identified in this section are subject to the following conditions and limitations: The amount transferred in subsection (1) of this section represents repayment of operating loans and reserve payments provided to the Tacoma Narrows toll bridge account from the motor vehicle account in the 2005-07 fiscal biennium.

NEW SECTION. **Sec. 408. STATUTORY APPROPRIATIONS.** In addition to the amounts appropriated in this act for revenue for distribution, state contributions to the law enforcement officers' and firefighters' retirement system, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under any proper bond covenant made under law.

NEW SECTION. **Sec. 409.** The department of transportation is authorized to undertake federal advance construction projects under the provisions of 23 U.S.C. Sec. 115 in order to maintain progress in meeting approved highway construction and preservation objectives. The legislature recognizes that the use of state funds may be required to temporarily fund expenditures of the federal appropriations for the highway construction and preservation programs for federal advance construction projects prior to conversion to federal funding.

COMPENSATION

NEW SECTION. **Sec. 501. FOR THE OFFICE FINANCIAL MANAGEMENT--REVISED PENSION CONTRIBUTION RATES**

Aeronautics Account--State. . . . . ($34,000)
Grade Crossing Protective Account--State. . . . . ($2,000)
State Patrol Highway Account--State. . . . . ($12,723,000)
Motorcycle Safety Education Account--State. . . . . ($14,000)
High Occupancy Toll Lanes Operations Account--State . . . . . ($16,000)
Rural Arterial Trust Account--State. . . . . ($16,000)
Wildlife Account--State. . . . . ($12,000)
Highway Safety Account--State. . . . . ($1,543,000)
Highway Safety Account--Federal. . . . . ($46,000)
Motor Vehicle Account--State. . . . . ($8,240,000)
Puget Sound Ferry Operations Account--State. . . . ($4,147,000)
Urban Arterial Trust Account--State. . . . . ($22,000)
Transportation Improvement Account--State. . . . . ($22,000)
County Arterial Preservation Account--State. . . . . ($18,000)
Department of Licensing Services Account--State. . . . ($30,000)
Multimodal Transportation Account--State. . . . . ($138,000)
Tacoma Narrows Toll Bridge Account--State. . . . . ($24,000)

Appropriations are adjusted to reflect changes to appropriations to reflect savings resulting from pension funding. The office of financial management shall update agency appropriations schedules to reflect the changes to funding levels in this section as identified by agency and fund in LEAP document Z9-2009.

NEW SECTION. **Sec. 502. FOR THE OFFICE FINANCIAL MANAGEMENT--REVISED EMPLOYER HEALTH BENEFIT RATES**

Aeronautics Account--State. $14,000
State Patrol Highway Account--State. $2,409,000
Motorcycle Safety Education Account--State. $9,000
Puget Sound Capital Construction--State. $134,000
High Occupancy Toll Lanes Operations Account--State. $8,000
Rural Arterial Trust Account--State. $6,000
Wildlife Account--State. $6,000
Highway Safety Account--State. $1,011,000
Highway Safety Account--Federal. $22,000
Motor Vehicle Account--State. $7,783,000
Puget Sound Ferry Operations Account--State. $2,054,000
Urban Arterial Trust Account--State. $8,000
Transportation Improvement Account--State. $8,000
County Arterial Preservation Account--State. $6,000
Department of Licensing Services Account--State. . . . $12,000
Multimodal Transportation Account--State. $68,000
Tacoma Narrows Toll Bridge Account--State. $12,000

Appropriations are adjusted to reflect changes to appropriations to reflect changes in the employer cost of providing health benefit coverage. The office of financial management shall update agency appropriations schedules to reflect the changes to funding levels in this section as identified by agency and fund in LEAP document 6M-2009.

IMPLEMENTING PROVISIONS

NEW SECTION. **Sec. 601. INFORMATION SYSTEMS PROJECTS.** Agencies shall comply with the following requirements regarding information systems projects when specifically directed to do so by this act.

(1) Agency planning and decisions concerning information technology shall be made in the context of its information technology portfolio. "Information technology portfolio" means a strategic management approach in which the relationships between agency missions and information technology investments can be seen and understood, such that: Technology efforts are linked to agency objectives and business plans; the impact of new investments on existing infrastructure and business functions are assessed and understood before implementation; and agency activities are consistent with the

development of an integrated, nonduplicative statewide infrastructure.

(2) Agencies shall use their information technology portfolios in making decisions on matters related to the following:

(a) System refurbishment, acquisitions, and development efforts;

(b) Setting goals and objectives for using information technology in meeting legislatively-mandated missions and business needs;

(c) Assessment of overall information processing performance, resources, and capabilities;

(d) Ensuring appropriate transfer of technological expertise for the operation of any new systems developed using external resources; and

(e) Progress toward enabling electronic access to public information.

(3) Each project will be planned and designed to take optimal advantage of Internet technologies and protocols. Agencies shall ensure that the project is in compliance with the architecture, infrastructure, principles, policies, and standards of digital government as maintained by the information services board.

(4) The agency shall produce a feasibility study for information technology projects at the direction of the information services board and in accordance with published department of information services policies and guidelines. At a minimum, such studies shall include a statement of: (a) The purpose or impetus for change; (b) the business value to the agency, including an examination and evaluation of benefits, advantages, and cost; (c) a comprehensive risk assessment based on the proposed project's impact on both citizens and state operations, its visibility, and the consequences of doing nothing; (d) the impact on agency and statewide information infrastructure; and (e) the impact of the proposed enhancements to an agency's information technology capabilities on meeting service delivery demands.

(5) The agency shall produce a comprehensive management plan for each project. The plan or plans shall address all factors critical to successful completion of each project. The plan(s) shall include, but is not limited to, the following elements: A description of the problem or opportunity that the information technology project is intended to address; a statement of project objectives and assumptions; a definition and schedule of phases, tasks, and activities to be accomplished; and the estimated cost of each phase. The planning for the phased approach shall be such that the business case justification for a project needs to demonstrate how the project recovers cost or adds measurable value or positive cost benefit to the agency's business functions within each development cycle.

(6) The agency shall produce quality assurance plans for information technology projects. Consistent with the direction of the information services board and the published policies and guidelines of the department of information services, the quality assurance plan shall address all factors critical to successful completion of the project and successful integration with the agency and state information technology infrastructure. At a minimum, quality assurance plans shall provide time and budget benchmarks against which project progress can be measured, a specification of quality assurance responsibilities, and a statement of reporting requirements. The quality assurance plans shall set out the functionality requirements for each phase of a project.

(7) A copy of each feasibility study, project management plan, and quality assurance plan shall be provided to the department of information services, the office of financial management, and legislative fiscal committees. The plans and studies shall demonstrate a sound business case that justifies the investment of taxpayer funds on any new project, an assessment of the impact of the proposed system on the existing information technology infrastructure, the disciplined use of preventative measures to mitigate risk, and the leveraging of private-sector expertise as needed. Authority to expend any funds for individual information systems projects is conditioned on the approval of the relevant feasibility study, project management plan, and quality assurance plan by the department of information services and the office of financial management.

(8) Quality assurance status reports shall be submitted to the department of information services, the office of financial management, and legislative fiscal committees at intervals specified in the project's quality assurance plan.

NEW SECTION. **Sec. 602.** Due to the state of the economy affecting state budgets, the state is reviewing agency spending plans to identify areas in which new technologies can be applied to achieve greater efficiencies, economies of scale, and save the state money. Information technology and communications is an area where the state can save millions of dollars, if managed well. If information technology and communications are managed poorly, by not planning effectively and taking advantage of new capabilities, this can also cost the state millions of dollars.

By July 1, 2009, each transportation agency is required to begin implementing a holistic virtualization strategy to take advantage of information technology infrastructure savings in the areas of capital and operating costs at the server, desktop, network, data storage, business continuance, and disaster recovery levels. This includes a disaster recovery strategy and roadmap, a unified storage strategy, a network infrastructure plan, and a centralized management plan for servers and applications. The business needs, business strategy, and mission of each agency must be tied to the technical strategy, including the completion of an impact analysis showing a quantifiable return on investment analysis for cost savings/avoidance.

By July 1, 2009, due to the large increase in networks to move an increasingly large amount of data, transportation agencies are to begin implementing wide area network optimization technologies to improve application performance while decreasing continuing requests for additional bandwidth and save the state money.

By January 1, 2010, each transportation agency shall have a plan and begin its implementation for moving from legacy communication systems that are outdated and costly and implement new voice over internet protocol communications systems. Each agency is required to begin implementing a holistic communications and collaboration strategy to take advantage of information technology infrastructure savings in the areas of capital and operating costs, decrease statewide communication costs, and increase communications and collaboration capabilities.

NEW SECTION. **Sec. 603. FUND TRANSFERS.** (1) The transportation 2003 projects or improvements and the 2005 transportation partnership projects or improvements are listed in LEAP Transportation Document 2009-1, which consists of a list of specific projects by fund source and amount over a sixteen year period. Current fiscal biennium funding for each project is a line item appropriation, while the outer year funding allocations represent a sixteen year plan. The department is expected to use the flexibility provided in this section to assist in the delivery and completion of all transportation partnership account and transportation 2003 (nickel) account projects on the LEAP lists referenced in this act. For the 2009-11 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects funded with transportation 2003 account (nickel account) appropriations, transportation partnership account appropriations, or multimodal transportation account appropriations, in order to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

(a) Transfers may only be made within each specific fund source referenced on the respective project list;

(b) Transfers from a project may not be made as a result of the reduction of the scope of a project, nor shall a transfer be made to support increases in the scope of a project;

(c) Each transfer between projects may only occur if the director of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature. Until the legislature reconvenes to consider the 2010 supplemental budget, any unexpended 2007-09

appropriation balance as approved by the office of financial management, in consultation with the legislative staff of the house of representatives and senate transportation committees, may be considered when transferring funds between projects;

(d) Transfers from a project may be made if the funds appropriated to the project are in excess of the amount needed to complete the project;

(e) Transfers may not occur to projects not identified on the applicable project list, except for those projects that were expected to be completed in the 2007-09 fiscal biennium; and

(f) Transfers may not be made while the legislature is in session.

(2) At the time the department submits a request to transfer funds under this section a copy of the request shall be submitted to the transportation committees of the legislature.

(3) The office of financial management shall work with legislative staff of the house of representatives and senate transportation committees to review the requested transfers.

(4) The office of financial management shall document approved transfers and/or schedule changes in the transportation executive information system (TEIS), compare changes to the legislative baseline funding and schedules identified by project identification number identified in the LEAP lists adopted in this act, and transmit revised project lists to chairs of the transportation committees of the legislature on a quarterly basis.

NEW SECTION. **Sec. 604. MEGA-PROJECT REPORTING.** Mega-projects are defined as individual or groups of related projects that cost $1,000,000,000 or more. These projects include, but are not limited to: Alaskan Way viaduct, SR 520, SR 167, I-405, North Spokane corridor, I-5 Tacoma HOV, and the Columbia river crossing. The office of financial management shall track mega-projects and report the financial status and schedule of these projects at least once a year to the transportation committees of the legislature. The design of mega-projects must be evaluated considering cost, capacity, safety, mobility needs, and how well the design of the facility fits within its urban environment.

NEW SECTION. **Sec. 605.** Executive Order number 05-05, archaeological and cultural resources, was issued effective November 10, 2005. Agencies and higher education institutions that issue grants or loans for capital projects shall comply with the requirements set forth in this executive order.

MISCELLANEOUS 2009-11 FISCAL BIENNIUM

Sec. 701. RCW 46.68.170 and 2007 c 518 s 701 are each amended to read as follows:

There is hereby created in the motor vehicle fund the RV account. All moneys hereafter deposited in said account shall be used by the department of transportation for the construction, maintenance, and operation of recreational vehicle sanitary disposal systems at safety rest areas in accordance with the department's highway system plan as prescribed in chapter 47.06 RCW. During the ((~~2005-2007 and~~)) 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the RV account to the motor vehicle fund such amounts as reflect the excess fund balance of the RV account.

Sec. 702. RCW 47.29.170 and 2007 c 518 s 702 are each amended to read as follows:

Before accepting any unsolicited project proposals, the commission must adopt rules to facilitate the acceptance, review, evaluation, and selection of unsolicited project proposals. These rules must include the following:

(1) Provisions that specify unsolicited proposals must meet predetermined criteria;

(2) Provisions governing procedures for the cessation of negotiations and consideration;

(3) Provisions outlining that unsolicited proposals are subject to a two-step process that begins with concept proposals and would only advance to the second step, which are fully detailed proposals, if the commission so directed;

(4) Provisions that require concept proposals to include at least the following information: Proposers' qualifications and experience; description of the proposed project and impact; proposed project financing; and known public benefits and opposition; and

(5) Provisions that specify the process to be followed if the commission is interested in the concept proposal, which must include provisions:

(a) Requiring that information regarding the potential project would be published for a period of not less than thirty days, during which time entities could express interest in submitting a proposal;

(b) Specifying that if letters of interest were received during the thirty days, then an additional sixty days for submission of the fully detailed proposal would be allowed; and

(c) Procedures for what will happen if there are insufficient proposals submitted or if there are no letters of interest submitted in the appropriate time frame.

The commission may adopt other rules as necessary to avoid conflicts with existing laws, statutes, or contractual obligations of the state.

The commission may not accept or consider any unsolicited proposals before July 1, ((~~2009~~)) 2011.

NEW SECTION. **Sec. 703.** To the extent that any appropriation authorizes expenditures of state funds from the motor vehicle account, special category C account, Tacoma Narrows toll bridge account, transportation 2003 account (nickel account), transportation partnership account, transportation improvement account, Puget Sound capital construction account, multimodal transportation account, or other transportation capital project account in the state treasury for a state transportation program that is specified to be funded with proceeds from the sale of bonds authorized in chapter 47.10 RCW, the legislature declares that any such expenditures made prior to the issue date of the applicable transportation bonds for that state transportation program are intended to be reimbursed from proceeds of those transportation bonds in a maximum amount equal to the amount of such appropriation.

Sec. 704. RCW 46.16.685 and 2007 c 518 s 704 are each amended to read as follows:

The license plate technology account is created in the state treasury. All receipts collected under RCW 46.01.140(4)(e)(ii) must be deposited into this account. Expenditures from this account must support current and future license plate technology and systems integration upgrades for both the department and correctional industries. Moneys in the account may be spent only after appropriation. Additionally, the moneys in this account may be used to reimburse the motor vehicle account for any appropriation made to implement the digital license plate system. During the 2007-2009 and 2009-2011 fiscal ((~~biennium~~)) biennia, the legislature may transfer from the license plate technology account to the multimodal transportation account such amounts as reflect the excess fund balance of the license plate technology account.

Sec. 705. RCW 47.01.380 and 2006 c 311 s 26 are each amended to read as follows:

The department shall not commence construction on any part of the state route number 520 bridge replacement and HOV project until a record of decision has been reached providing reasonable assurance that project impacts will be avoided, minimized, or mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality as a result of repairs and improvements made to the state route number 520 bridge and its connecting roadways, and that any such impacts will be addressed through engineering design choices, mitigation measures, or a combination of both. The requirements of this section shall not apply to off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project. The requirements of this section shall not apply during the 2009-2011 fiscal biennium.

Sec. 706. RCW 47.01.390 and 2007 c 518 s 705 are each amended to read as follows:

(1) Prior to commencing construction on either project, the department of transportation must complete all of the following requirements for both the Alaskan Way viaduct and Seattle Seawall replacement project, and the state route number 520 bridge replacement and HOV project: (a) In accordance with the national environmental policy act, the department must

designate the preferred alternative, prepare a substantial project mitigation plan, and complete a comprehensive cost estimate review using the department's cost estimate validation process, for each project; (b) in accordance with all applicable federal highway administration planning and project management requirements, the department must prepare a project finance plan for each project that clearly identifies secured and anticipated fund sources, cash flow timing requirements, and project staging and phasing plans if applicable; and (c) the department must report these results for each project to the joint transportation committee.

(2) The requirements of this section shall not apply to (a) utility relocation work, and related activities, on the Alaskan Way viaduct and Seattle Seawall replacement project and (b) off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.

(3) The requirements of subsection (1) of this section shall not apply during the 2007-2009 fiscal biennium.

(4) The requirements of subsection (1) of this section shall not apply during the 2009-2011 fiscal biennium.

Sec. 707. RCW 47.60.395 and 2007 c 512 s 15 are each amended to read as follows:

(1) The joint legislative audit and review committee shall assess and report as follows:

(a) Audit the implementation of the cost allocation methodology evaluated under [section 205,] chapter 518, Laws of 2007, as it exists on July 22, 2007, assessing whether actual costs are allocated consistently with the methodology, whether there are sufficient internal controls to ensure proper allocation, and the adequacy of staff training; and

(b) Review the assignment of preservation costs and improvement costs for fiscal year 2009 to determine whether:

(i) The costs are capital costs;

(ii) The costs meet the statutory requirements for preservation activities and for improvement activities; and

(iii) Improvement costs are within the scope of legislative appropriations.

(2) The report on the evaluations in this section is due by January 31, 2010.

(3) This section expires December 31, 2010.

(4) The requirements of this section shall not apply during the 2009-2011 fiscal biennium.

Sec. 708. RCW 88.16.090 and 2008 c 128 s 4 are each amended to read as follows:

(1) A person may pilot any vessel subject to this chapter on waters covered by this chapter only if licensed to pilot such vessels on such waters under this chapter.

(2)(a) A person is eligible to be licensed as a pilot or a pilot trainee if the person:

(i) Is a citizen of the United States;

(ii) Is over the age of twenty-five years and under the age of seventy years;

(iii)(A) Holds at the time of application, as a minimum, a United States government license as master of steam or motor vessels of not more than one thousand six hundred gross register tons (three thousand international tonnage convention tons) upon oceans, near coastal waters, or inland waters; or the then most equivalent federal license as determined by the board; any such license to have been held by the applicant for a period of at least two years before application;

(B) Holds at the time of licensure as a pilot, after successful completion of the board-required training program, a first class United States endorsement without restrictions on the United States government license for the pilotage district in which the pilot applicant desires to be licensed; however, all applicants for a pilot examination scheduled to be given before July 1, 2008, must have the United States pilotage endorsement at the time of application; and

(C) The board may require that applicants and pilots have federal licenses and endorsements as it deems appropriate; and

(iv) Successfully completes a board-specified training program.

(b) In addition to the requirements of (a) of this subsection, a pilot applicant must meet such other qualifications as may be required by the board.

(c) A person applying for a license under this section shall not have been convicted of an offense involving drugs or the personal consumption of alcohol in the twelve months prior to the date of application. This restriction does not apply to license renewals under this section.

(3) The board may establish such other training license and pilot license requirements as it deems appropriate.

(4) Pilot applicants shall be evaluated and may be ranked for entry into a board-specified training program in a manner specified by the board based on their performance on a written examination or examinations established by the board, performance on other evaluation exercises as may be required by the board, and other criteria or qualifications as may be set by the board.

When the board determines that the demand for pilots requires entry of an applicant into the training program it shall issue a training license to that applicant, but under no circumstances may an applicant be issued a training license more than four years after taking the written entry examination. The training license authorizes the trainee to do such actions as are specified in the training program.

After the completion of the training program the board shall evaluate the trainee's performance and knowledge. The board, as it deems appropriate, may then issue a pilot license, delay the issuance of the pilot license, deny the issuance of the pilot license, or require further training and evaluation.

(5) The board may (a) appoint a special independent committee or (b) contract with private or governmental entities knowledgeable and experienced in the development, administration, and grading of licensing examinations or simulator evaluations for marine pilots, or (c) do both. Active, licensed pilots designated by the board may participate in the development, administration, and grading of examinations and other evaluation exercises. If the board does appoint a special examination or evaluation development committee, it is authorized to pay the members of the committee the same compensation and travel expenses as received by members of the board. Any person who willfully gives advance knowledge of information contained on a pilot examination or other evaluation exercise is guilty of a gross misdemeanor.

(6) This subsection applies to the review of a pilot applicant's written examinations and evaluation exercises to qualify to be placed on a waiting list to become a pilot trainee. Failure to comply with the process set forth in this subsection renders the results of the pilot applicant's written examinations and evaluation exercises final. A pilot applicant may seek board review, administrative review, and judicial review of the results of the written examinations and evaluation exercises in the following manner:

(a) A pilot applicant who seeks a review of the results of his or her written examinations or evaluation exercises must request from the board-appointed or board-designated examination committee an administrative review of the results of his or her written examinations or evaluation exercises as set forth by board rule.

(b) The determination of the examination committee's review of a pilot applicant's examination results becomes final after thirty days from the date of service of written notification of the committee's determination unless a full adjudicative hearing before an administrative law judge has been requested by the pilot applicant before the thirty-day period has expired, as set forth by board rule.

(c) When a full adjudicative hearing has been requested by the pilot applicant, the board shall request the appointment of an administrative law judge under chapter 34.12 RCW who has sufficient experience and familiarity with pilotage matters to be able to conduct a fair and impartial hearing. The hearing shall be governed by chapter 34.05 RCW. The administrative law judge shall issue an initial order.

(d) The initial order of the administrative law judge is final unless within thirty days of the date of service of the initial order the board or pilot applicant requests review of the initial order under chapter 34.05 RCW.

(e) The board may appoint a person to review the initial order and to prepare and enter a final order as governed by

chapter 34.05 RCW and as set forth by board rule. The person appointed by the board under this subsection (6)(e) is called the board reviewing officer.

(7) Pilots are licensed under this section for a term of five years from and after the date of the issuance of their respective state licenses. Licenses must thereafter be renewed as a matter of course, unless the board withholds the license for good cause. Each pilot shall pay to the state treasurer an annual license fee in an amount set by the board by rule. Pursuant to RCW 43.135.055, the fees established under this subsection may be increased ((~~in excess of the fiscal growth factor as provided in RCW 43.135.055~~)) through the fiscal year ending June 30, ((~~2009~~)) 2011. The fees must be deposited in the pilotage account. The board may assess partially active or inactive pilots a reduced fee.

(8) All pilots and pilot trainees are subject to an annual physical examination by a physician chosen by the board. The physician shall examine the pilot's or pilot trainee's heart, blood pressure, circulatory system, lungs and respiratory system, eyesight, hearing, and such other items as may be prescribed by the board. After consultation with a physician and the United States coast guard, the board shall establish minimum health standards to ensure that pilots and pilot trainees licensed by the state are able to perform their duties. Within ninety days of the date of each annual physical examination, and after review of the physician's report, the board shall make a determination of whether the pilot or pilot trainee is fully able to carry out the duties of a pilot or pilot trainee under this chapter. The board may in its discretion check with the appropriate authority for any convictions of or information regarding offenses by a licensed pilot or pilot trainee involving drugs or the personal consumption of alcohol in the prior twelve months.

(9) The board may require vessel simulator training for a pilot trainee and shall require vessel simulator training for a licensed pilot subject to RCW 88.16.105. The board shall also require vessel simulator training in the first year of active duty for a new pilot and at least once every five years for all active pilots.

(10) The board shall prescribe, pursuant to chapter 34.05 RCW, such reporting requirements and review procedures as may be necessary to assure the accuracy and validity of license and service claims. Willful misrepresentation of such required information by a pilot applicant shall result in disqualification of the pilot applicant.

Sec. 709. RCW 47.12.244 and 2007 c 518 s 707 are each amended to read as follows:

There is created the "advance right-of-way revolving fund" in the custody of the treasurer, into which the department is authorized to deposit directly and expend without appropriation:

(1) An initial deposit of ten million dollars from the motor vehicle fund included in the department of transportation's 1991-93 budget;

(2) All moneys received by the department as rental income from real properties that are not subject to federal aid reimbursement, except moneys received from rental of capital facilities properties as defined in chapter 47.13 RCW; and

(3) Any federal moneys available for acquisition of right-of-way for future construction under the provisions of section 108 of Title 23, United States Code.

((~~(4)~~)) During the ((~~2007-09~~)) 2007-2009 and 2009-2011 fiscal ((~~biennium~~)) biennia, the legislature may transfer from the advance right-of-way revolving fund to the motor vehicle account amounts as reflect the excess fund balance of the advance right-of-way revolving fund.

Sec. 710. RCW 70.95.521 and 2007 c 518 s 708 are each amended to read as follows:

The waste tire removal account is created in the state treasury. All receipts from tire fees imposed under RCW 70.95.510 must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the cleanup of unauthorized waste tire piles and measures that prevent future accumulation of unauthorized waste tire piles. During the 2007-2009 and 2009-2011 fiscal ((~~biennium~~)) biennia, the legislature may transfer from the waste tire removal account to the motor vehicle fund such amounts as reflect the excess fund balance of the waste tire removal account.

Sec. 711. RCW 46.16.725 and 2008 c 72 s 2 are each amended to read as follows:

(1) The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.

(2) The board must review and either approve or reject special license plate applications submitted by sponsoring organizations.

(3) Duties of the board include but are not limited to the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the senate and house transportation committees;

(b) Report annually to the senate and house transportation committees on the special license plate applications that were considered by the board;

(c) Issue approval and rejection notification letters to sponsoring organizations, the department, the chairs of the senate and house of representatives transportation committees, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application;

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The board may submit a recommendation to discontinue a special plate series to the chairs of the senate and house of representatives transportation committees;

(e) Provide policy guidance and directions to the department concerning the adoption of rules necessary to limit the number of special license plates that an organization or a governmental entity may apply for.

(4) Except as provided in chapter 72, Laws of 2008, in order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until July 1, ((~~2009~~)) 2011. During this period of time, the special license plate review board created in RCW 46.16.705 and the department of licensing are prohibited from accepting, reviewing, processing, or approving any applications. Additionally, no special license plate may be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the board before February 15, 2005.

Sec. 712. RCW 46.68.060 and 2007 c 518 s 714 are each amended to read as follows:

There is hereby created in the state treasury a fund to be known as the highway safety fund to the credit of which shall be deposited all moneys directed by law to be deposited therein. This fund shall be used for carrying out the provisions of law relating to driver licensing, driver improvement, financial responsibility, cost of furnishing abstracts of driving records and maintaining such case records, and to carry out the purposes set forth in RCW 43.59.010. During the ((~~2005-2007 and~~)) 2007-2009 and 2009-2011 fiscal biennia, the legislature may transfer from the highway safety fund to the motor vehicle fund and the multimodal transportation account such amounts as reflect the excess fund balance of the highway safety fund.

Sec. 713. RCW 46.68.220 and 2009 c 8 s 503 are each amended to read as follows:

The department of licensing services account is created in the motor vehicle fund. All receipts from service fees received under RCW 46.01.140(4)(b) shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for information and service delivery systems for the department, and for reimbursement of county licensing activities. During the 2007-2009 and 2009-2011 fiscal ((~~biennium~~)) biennia, the legislature may transfer from the department of licensing services account such amounts as reflect the excess fund balance of the account.

MISCELLANEOUS

NEW SECTION. **Sec. 801.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 802.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Marr moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5352 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Marr that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5352 and request conference thereon.

The motion by Senator Marr carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5352 and requested of the House a conference thereon by voice vote.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 5352 and the House amendment(s) thereto: Senators Senators Haugen, Marr and Swecker.

MOTION

On motion of Senator Marr, the appointments to the conference committee were confirmed.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5166 with the following amendments:

On page 10, beginning on line 1, strike all of section 6

Renumber the remaining section and correct the title.

On page 4, line 10, after "hunting license," insert "occupational licenses, such as a"

On page 4, line 12, after "possess" insert ", and suspension of a license by the department of fish and wildlife may also affect the parent's ability to obtain permits, such as special hunting permits, issued by the department"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5166.

Senator Regala spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5166.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5166 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5166, as amended by the House.

MOTION

On motion of Senator Marr, Senators Kohl-Welles, McDermott and Murray were excused.

Senator Stevens spoke in favor of passage of the bill.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5166, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

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

Absent: Senator Delvin

SUBSTITUTE SENATE BILL NO. 5166, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MOTION

Senator Shin moved adoption of the following resolution:

SENATE RESOLUTION
8655

By Senators Shin, Honeyford, King, Kastama, Keiser, Hobbs, Berkey, Swecker, Delvin, Kilmer, Hargrove, Franklin, Rockefeller, Schoesler, Eide, Kauffman, Regala, Murray, Brown, Kline, Oemig, and Marr

WHEREAS, Pacific Northwest University of Health Sciences was founded in 2005 by visionary community leaders seeking innovative solutions to the growing physician shortage; and

WHEREAS, Pacific Northwest University of Health Sciences has flourished under the leadership of its president, Dr. Stanley Flemming; and

WHEREAS, Pacific Northwest University of Health Sciences is the first medical school to be established in the Pacific Northwest in nearly sixty years; and

WHEREAS, Pacific Northwest University of Health Sciences trains, educates, and encourages scientific research for health professionals who will provide quality care to all communities of the Pacific Northwest, particularly underserved populations; and

WHEREAS, Pacific Northwest University of Health Sciences welcomed its inaugural class of seventy-five students into its first college, the College of Osteopathic Medicine on August 4, 2008; and

WHEREAS, Pacific Northwest University of Health Sciences was founded to address critical shortages of health care professionals and places graduates in communities where they train; and

WHEREAS, Pacific Northwest University of Health Sciences strives to be a world-class medical school staffed by top caliber academic instructors and practicing physicians from both the osteopathic and allopathic professions;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize the outstanding accomplishments of the faculty, administration, board, students, and community of Pacific Northwest University of Health Sciences; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the president and members of the board of trustees of Pacific Northwest University of Health Sciences.

Senators Shin, King, Kauffman, Franklin and Keiser spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8655.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Representatives of the Pacific Northwest University, Dr. Stan Flemming, University President; Gretchen Eikmier, Vice President for Advancement & Development; Dr. Timothy Morris, Vice President Chief Operating Officer; Karen Hyatt, Chair Board of Trustees and former Representative Bill Fromhold and Marsha Fromhold who were seated in the gallery.

MOTION

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

MESSAGE FROM THE HOUSE

April 18, 2009

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1138 and asks Senate to recede therefrom.
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1138.

Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kline that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1138.

The motion by Senator Kline carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 1138 by voice vote.

MOTION

On motion of Senator Kline, the rules were suspended and Engrossed Substitute House Bill No. 1138 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1138, by House Committee on Judiciary (originally sponsored by Representatives Liias, Clibborn, Moeller, Green, Cody, Driscoll, Morrell and Pedersen)

Concerning access to employee restrooms in retail stores.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 70.54 RCW to read as follows:

(1) For purposes of this section:

(a) "Customer" means an individual who is lawfully on the premises of a retail establishment.

(b) "Eligible medical condition" means:

(i) Crohn's disease, ulcerative colitis, or any other inflammatory bowel disease;

(ii) Irritable bowel syndrome;

(iii) Any condition requiring use of an ostomy device; or

(iv) Any permanent or temporary medical condition that requires immediate access to a restroom.

(c) "Employee restroom" means a restroom intended for employees only in a retail facility and not intended for customers.

(d) "Health care provider" means an advanced registered nurse practitioner licensed under chapter 18.79 RCW, an osteopathic physician or surgeon licensed under chapter 18.57 RCW, an osteopathic physicians assistant licensed under chapter 18.57A RCW, a physician or surgeon licensed under chapter 18.71 RCW, or a physician assistant licensed under chapter 18.71A RCW.

(e) "Retail establishment" means a place of business open to the general public for the sale of goods or services. Retail establishment does not include any structure such as a filling station, service station, or restaurant of eight hundred square feet or less that has an employee restroom located within that structure.

(2) A retail establishment that has an employee restroom must allow a customer with an eligible medical condition to use that employee restroom during normal business hours if:

(a) The customer requesting the use of the employee restroom provides in writing either:

(i) A signed statement by the customer's health care provider on a form that has been prepared by the department of health under subsection (4) of this section; or

(ii) An identification card that is issued by a nonprofit organization whose purpose includes serving individuals who suffer from an eligible medical condition; and

(b) One of the following conditions are met:

(i) The employee restroom is reasonably safe and is not located in an area where providing access would create an obvious health or safety risk to the customer; or

(ii) Allowing the customer to access the restroom facility does not pose a security risk to the retail establishment or its employees.

(3) A retail establishment that has an employee restroom must allow a customer to use that employee restroom during normal business hours if:

(a)(i) Three or more employees of the retail establishment are working at the time the customer requests use of the employee restroom; and

(ii) The retail establishment does not normally make a restroom available to the public; and

(b)(i) The employee restroom is reasonably safe and is not located in an area where providing access would create an obvious health or safety risk to the customer; or

(ii) Allowing the customer to access the employee restroom does not pose a security risk to the retail establishment or its employees.

(4) The department of health shall develop a standard electronic form that may be signed by a health care provider as evidence of the existence of an eligible medical condition as required by subsection (2) of this section. The form shall include a brief description of a customer's rights under this section and shall be made available for a customer or his or her health care provider to access by computer. Nothing in this section requires the department to distribute printed versions of the form.

(5) Fraudulent use of a form as evidence of the existence of an eligible medical condition is a misdemeanor punishable under RCW 9A.20.010.

(6) For a first violation of this section, the city or county attorney shall issue a warning letter to the owner or operator of the retail establishment, and to any employee of a retail establishment who denies access to an employee restroom in violation of this section, informing the owner or operator of the establishment and employee of the requirements of this section. A retail establishment or an employee of a retail establishment that violates this section after receiving a warning letter is guilty of a class 2 civil infraction under chapter 7.80 RCW.

(7) A retail establishment is not required to make any physical changes to an employee restroom under this section and may require that an employee accompany a customer or a customer with an eligible medical condition to the employee restroom.

(8) A retail establishment or an employee of a retail establishment is not civilly liable for any act or omission in allowing a customer or a customer with an eligible medical condition to use an employee restroom if the act or omission meets all of the following:

(a) It is not willful or grossly negligent;

(b) It occurs in an area of the retail establishment that is not accessible to the public; and

(c) It results in an injury to or death of the customer or the customer with an eligible medical condition or any individual other than an employee accompanying the customer or the customer with an eligible medical condition."

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

POINT OF INQUIRY

Senator Roach: "Would Senator Hargrove yield to a question? Just again when these striking amendments come across the desks so quickly it's kind of hard to get everything down. The original bill before the striker would have given a misdemeanor to a store if they in fact did not allow someone to use the restroom. I'm wondering if this still has it in there? Senator, could you yield to this question, someone that has the answer to that?"

Senator Hargrove: "No, Senator Roach, the misdemeanor would of have applied to somebody that was fraudulently using one of those ID cards that said that they had the medical condition. It's still is only a civil infraction for a store if they don't let somebody under these conditions use a restroom."

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Kline and others to Engrossed Substitute House Bill No. 1138.

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

MOTION

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

On page 1, line 2 of the title, after "establishment;" strike the remainder of the title and insert "adding a new section to chapter 70.54 RCW; and prescribing penalties."

MOTION

On motion of Senator Eide, Senators McDermott, Murray and Oemig were excused.

MOTION

On motion of Senator Marr, Senators Brown, Ranker and Sheldon were excused.

MOTION

On motion of Senator Carrell, Senator Roach was excused.

MOTION

On motion of Senator Eide, the rules were suspended, Engrossed Substitute House Bill No. 1138 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTION

On motion of Senator Brandland, Senator Swecker was excused.

Senator Hargrove spoke in favor of passage of the bill.

Senator Sheldon spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1138 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1138 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 33; Nays, 12; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Oemig, Parlette, Prentice, Pridemore, Ranker, Regala, Rockefeller, Schoesler, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Hewitt, Holmquist, Honeyford, King, Pflug, Roach, Sheldon, Stevens and Zarelli

Excused: Senators Brown, McDermott, Murray and Swecker

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1138 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:54 a.m., on motion of Senator Eide, the Senate was declared to be at recess until 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by President Owen.

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Hargrove moved that Gubernatorial Appointment No. 9148, Fawn Sharp-Malvini, as a member of the Board of Trustees, Grays Harbor Community College District No. 2, be confirmed.

Senator Hargrove spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senators Benton, Carrell, Holmquist, Parlette and Roach were excused.

MOTION

On motion of Senator Marr, Senators Brown and Prentice were excused.

APPOINTMENT OF FAWN SHARP-MALVINI

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9148, Fawn Sharp-Malvini as a member of the Board of Trustees, Grays Harbor Community College District No. 2.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9148, Fawn Sharp-Malvini as a member of the Board of Trustees, Grays Harbor Community College District No. 2 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 3; Excused, 2.

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

Absent: Senators Fraser, Jacobsen and Oemig

Excused: Senators Benton and Brown

Gubernatorial Appointment No. 9148, Fawn Sharp-Malvini, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Grays Harbor Community College District No. 2.

MOTION

At 1:41 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 1:50 p.m. by President Owen.

MOTION

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

SIGNED BY THE PRESIDENT

The President signed:
SUBSTITUTE HOUSE BILL NO. 1943,
SECOND SUBSTITUTE HOUSE BILL NO. 1946,
SECOND SUBSTITUTE HOUSE BILL NO. 1951,
SUBSTITUTE HOUSE BILL NO. 1957,
ENGROSSED HOUSE BILL NO. 1967,

SUBSTITUTE HOUSE BILL NO. 2003,
HOUSE BILL NO. 2014,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2021,
HOUSE BILL NO. 2025,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2049,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2072,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2075,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2078,
SUBSTITUTE HOUSE BILL NO. 2079,
SECOND SUBSTITUTE HOUSE BILL NO. 2106,
SECOND SUBSTITUTE HOUSE BILL NO. 2119,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2128,
HOUSE BILL NO. 2129,
HOUSE BILL NO. 2146,
SUBSTITUTE HOUSE BILL NO. 2157,
SUBSTITUTE HOUSE BILL NO. 2160,
HOUSE BILL NO. 2199,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2222,
SUBSTITUTE HOUSE BILL NO. 2223,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2261,
SUBSTITUTE HOUSE BILL NO. 2287,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2289,
HOUSE BILL NO. 2313,

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5252 with the following amendment:

5252-S AMH HS MERE 084

On page 1, beginning on line 16, after "shall" strike "consult with" and insert "include"

On page 2, line 9, after "2009." Insert "Any minority position related to the substance of the final model policy shall be presented as an addendum to the policy."

On page 6, line 25, after "procedures" insert "and monitor their compliance with the procedures"

On page 6, at the beginning of line 27, strike "seek input from" and insert "consult with"

On page 6, line 27, after "pharmacists," strike "licensed physicians, or nurses" and insert "and one or more licensed physicians or nurses,"

On page 7, after line 23, insert the following:

"NEW SECTION. **Sec. 5.** The department of health shall annually review the medication practices of five jails that provide for the delivery and administration of medications to inmates in their custody by nonpractitioner jail personnel. The review shall assess whether the jails are in compliance with sections 3 and 4 of this act. To the extent that a jail is found not in compliance, the department shall provide technical assistance to assist the jail in resolving any areas of noncompliance."

Renumber the remaining section.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Brandland moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5252.

Senator Brandland spoke in favor of the motion.

MOTION

On motion of Senator Hobbs, Senator Hatfield was excused.

The President declared the question before the Senate to be the motion by Senator Brandland that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5252.

The motion by Senator Brandland carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5252 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5252, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5252, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Tom

Excused: Senator Brown

SUBSTITUTE SENATE BILL NO. 5252, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5391 with the following amendment: 5391-S AMH WAYS H3095.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds and declares that the practices of body piercing, tattooing, and other forms of body art involve an invasive procedure with the use of needles, sharps, instruments, and jewelry. These practices may be dangerous when improper sterilization techniques are used, presenting a risk of infecting the client with bloodborne pathogens including, but not limited to, HIV, hepatitis B, and hepatitis C. It is in the interests of the public health, safety, and welfare to establish requirements in the commercial practice of these activities in this state.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter and RCW 5.40.050 and 70.54.340 unless the context clearly requires otherwise.

(1) "Body art" means the practice of invasive cosmetic adornment including the use of branding and scarification. "Body art" also includes the intentional production of scars upon the body. "Body art" does not include any health-related procedures performed by licensed health care practitioners under their scope of practice.

(2) "Body piercing" means the process of penetrating the skin or mucous membrane to insert an object, including jewelry, for cosmetic purposes. "Body piercing" also includes any scar

tissue resulting from or relating to the piercing. "Body piercing" does not include the use of stud and clasp piercing systems to pierce the earlobe in accordance with the manufacturer's directions and applicable United States food and drug administration requirements. "Body piercing" does not include any health-related procedures performed by licensed health care practitioners under their scope of practice, nor does anything in this act authorize a person registered to engage in the business of body piercing to implant or embed foreign objects into the human body or otherwise engage in the practice of medicine.

(3) "Director" means the director of the department of licensing.

(4) "Individual license" means a body art, body piercing, or tattoo practitioner license issued under this chapter.

(5) "Location license" means a license issued under this chapter for a shop or business.

(6) "Shop or business" means a body art, body piercing, or tattooing shop or business.

(7) "Tattoo artist" means a person who pierces or punctures the human skin with a needle or other instrument for the purpose of implanting an indelible mark, or pigment, into the skin for a fee.

(8) "Tattooing" means to pierce or puncture the human skin with a needle or other instrument for the purpose of implanting an indelible mark, or pigment, into the skin.

NEW SECTION. **Sec. 3.** In addition to any other duties imposed by law, including RCW 18.235.030 and 18.235.040, the director has the following powers and duties:

(1) To set all license, examination, and renewal fees in accordance with RCW 43.24.086;

(2) To adopt rules necessary to implement this chapter;

(3) To prepare and administer or approve the preparation and administration of licensing;

(4) To establish minimum safety and sanitation standards for practitioners of body art, body piercing, or tattooing as determined by the department of health;

(5) To maintain the official department record of applicants and licensees;

(6) To set license expiration dates and renewal periods for all licenses consistent with this chapter;

(7) To ensure that all informational notices produced and mailed by the department regarding statutory and regulatory changes affecting any particular class of licensees are mailed to each licensee in good standing in the affected class whose mailing address on record with the department has not resulted in mail being returned as undeliverable for any reason; and

(8) To make information available to the department of revenue to assist in collecting taxes from persons and businesses required to be licensed under this chapter.

NEW SECTION. **Sec. 4.** (1) It is unlawful for any person to engage in a practice listed in subsection (2) of this section unless the person has a license in good standing as required by this chapter. A license issued under this chapter is considered to be "in good standing" except when:

(a) The license has expired or has been canceled and has not been renewed in accordance with section 6 of this act;

(b) The license has been denied, revoked, or suspended under section 12 or 14 of this act, and has not been reinstated; or

(c) The license is held by a person who has not fully complied with an order of the director issued under section 12 of this act requiring the licensee to pay restitution or a fine, or to acquire additional training.

(2) The director may take action under RCW 18.235.150 and 18.235.160 against any person who does any of the following without first obtaining, and maintaining in good standing, the license required by this chapter:

(a) Engages in the practice of body art, body piercing, or tattooing; or

(b) Operates a shop or business.

NEW SECTION. **Sec. 5.** Upon completion of an application approved by the department and payment of the proper fee, the director shall issue the appropriate location license to any person who completes an application approved by the department, provides certification of insurance, and provides payment of the proper fee.

NEW SECTION. **Sec. 6.** (1) The director shall issue the appropriate license to any applicant who meets the requirements as outlined in this chapter. The director has the authority to set appropriate licensing fees for body art, body piercing, and tattooing shops and businesses and body art, body piercing, and tattooing individual practitioners. Licensing fees for individual practitioners must be set in an amount less than licensing fees for shops and businesses.

(2) Failure to renew a license by its expiration date subjects the holder to a penalty fee and payment of each year's renewal fee, at the current rate.

(3) A person whose license has not been renewed within one year after its expiration date must have his or her license canceled and must be required to submit an application, pay the license fee, meet current licensing requirements, and pass any applicable examination or examinations, in addition to the other requirements of this chapter, before the license may be reinstated.

(4) Nothing in this section authorizes a person whose license has expired to engage in a practice prohibited under section 4 of this act until the license is renewed or reinstated.

(5) Upon request and payment of an additional fee to be established by rule by the director, the director shall issue a duplicate license to an applicant.

NEW SECTION. **Sec. 7.** (1) Subject to subsection (2) of this section, licenses issued under this chapter expire as follows:

(a) A body art, body piercing, or tattooing shop or business location license expires one year from issuance or when the insurance required by section 8(1)(g) of this act expires, whichever occurs first; and

(b) Body art, body piercing, or tattooing practitioner individual licenses expire one year from issuance.

(2) The director may provide for expiration dates other than those set forth in subsection (1) of this section for the purpose of establishing staggered renewal periods.

NEW SECTION. **Sec. 8.** (1) A body art, body piercing, or tattooing shop or business shall meet the following minimum requirements:

(a) Maintain an outside entrance separate from any rooms used for sleeping or residential purposes;

(b) Provide and maintain for the use of its customers adequate toilet facilities located within or adjacent to the shop or business;

(c) Any room used wholly or in part as a shop or business may not be used for residential purposes, except that toilet facilities may be used for both residential and business purposes;

(d) Meet the zoning requirements of the county, city, or town, as appropriate;

(e) Provide for safe storage and labeling of equipment and substances used in the practices under this chapter;

(f) Meet all applicable local and state fire codes; and

(g) Certify that the shop or business is covered by a public liability insurance policy in an amount not less than one hundred

thousand dollars for combined bodily injury and property damage liability.

(2) The director may by rule determine other requirements that are necessary for safety and sanitation of shops or businesses. The director may consult with the state board of health and the department of labor and industries in establishing minimum shop and business safety requirements.

(3) Upon receipt of a written complaint that a shop or business has violated any provisions of this chapter, chapter 18.235 RCW, or the rules adopted under either chapter, or at least once every two years for an existing shop or business, the director or the director's designee shall inspect each shop or business. If the director determines that any shop or business is not in compliance with this chapter, the director shall send written notice to the shop or business. A shop or business which fails to correct the conditions to the satisfaction of the director within a reasonable time is, upon due notice, subject to the penalties imposed by the director under RCW 18.235.110. The director may enter any shop or business during business hours for the purpose of inspection. The director may contract with health authorities of local governments to conduct the inspections under this subsection.

(4) A shop or business shall obtain a certificate of registration from the department of revenue.

(5) Shop or business location licenses issued by the department must be posted in the shop or business's reception area.

(6) Body art, body piercing, and tattooing practitioner individual licenses issued by the department must be posted at the licensed person's work station.

NEW SECTION. **Sec. 9.** The director shall prepare and provide to all licensed shops or businesses a notice to consumers. At a minimum, the notice must state that body art, body piercing, and tattooing shops or businesses are required to be licensed, that shops or businesses are required to maintain minimum safety and sanitation standards, that customer complaints regarding shops or businesses may be reported to the department, and a telephone number and address where complaints may be made.

NEW SECTION. **Sec. 10.** It is a violation of this chapter for any person to engage in the commercial practice of body art, body piercing, or tattooing except in a licensed shop or business with the appropriate individual body art, body piercing, or tattooing license.

NEW SECTION. **Sec. 11.** In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action against any applicant or licensee under this chapter if the licensee or applicant:

(1) Has been found to have violated any provisions of chapter 19.86 RCW;

(2) Has engaged in a practice prohibited under section 4 of this act without first obtaining, and maintaining in good standing, the license required by this chapter;

(3) Has failed to display licenses required in this chapter; or

(4) Has violated any provision of this chapter or any rule adopted under it.

NEW SECTION. **Sec. 12.** If, following a hearing, the director finds that any person or an applicant or licensee has violated any provision of this chapter or any rule adopted under it, the director may impose one or more of the following penalties:

(1) Denial of a license or renewal;

(2) Revocation or suspension of a license;

(3) A fine of not more than five hundred dollars per violation;

(4) Issuance of a reprimand or letter of censure;

(5) Placement of the licensee on probation for a fixed period of time;

(6) Restriction of the licensee's authorized scope of practice;

(7) Requiring the licensee to make restitution or a refund as determined by the director to any individual injured by the violation; or

(8) Requiring the licensee to obtain additional training or instruction.

NEW SECTION. **Sec. 13.** Any person aggrieved by the refusal of the director to issue any license provided for in this chapter, or to renew the same, or by the revocation or suspension of any license issued under this chapter or by the application of any penalty under section 12 of this act has the right to appeal the decision of the director to the superior court of the county in which the person maintains his or her place of business. The appeal must be filed within thirty days of the director's decision.

NEW SECTION. **Sec. 14.** The department shall immediately suspend the license of a person who has been certified under RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license is automatic upon the department's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

NEW SECTION. **Sec. 15.** The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. **Sec. 16.** The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. **Sec. 17.** This act shall be known and may be cited as the "Washington body art, body piercing, and tattooing act."

NEW SECTION. **Sec. 18.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Sec. 19. RCW 70.54.340 and 2001 c 194 s 3 are each amended to read as follows:

The secretary of health shall adopt by rule requirements, in accordance with nationally recognized professional standards, for precautions against the spread of disease, including the sterilization of needles and other instruments, including sharps and jewelry, employed by electrologists, persons engaged in the practice of body art, body piercing, and tattoo artists ((~~in accordance with nationally recognized professional standards~~)). The secretary shall consider the ((~~universal~~)) standard precautions for infection control, as recommended by the United States centers for disease control, and guidelines for infection control, as recommended by ((~~the national environmental health association and the alliance of professional tattooists,~~)) national industry standards in the adoption of these sterilization requirements.

Sec. 20. RCW 5.40.050 and 2001 c 194 s 5 are each amended to read as follows:

A breach of a duty imposed by statute, ordinance, or administrative rule shall not be considered negligence per se, but may be considered by the trier of fact as evidence of negligence; however, any breach of duty as provided by statute, ordinance, or administrative rule relating to: (1) Electrical fire safety, (2) the use of smoke alarms, (3) sterilization of needles and instruments used by persons engaged in the practice of body art, body piercing, tattooing, or electrology, or other precaution against the spread of disease, as required under RCW 70.54.350, or (4) driving while under the influence of intoxicating liquor or any drug, shall be considered negligence per se.

Sec. 21. RCW 43.24.150 and 2008 c 119 s 22 are each amended to read as follows:

(1) The business and professions account is created in the state treasury. All receipts from business or professional licenses, registrations, certifications, renewals, examinations, or civil penalties assessed and collected by the department from the following chapters must be deposited into the account:

(a) Chapter 18.11 RCW, auctioneers;

(b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;

(c) Chapter 18.96 RCW, landscape architects;

(d) Chapter 18.145 RCW, court reporters;

(e) Chapter 18.165 RCW, private investigators;

(f) Chapter 18.170 RCW, security guards;

(g) Chapter 18.185 RCW, bail bond agents;

(h) Chapter 18.280 RCW, home inspectors;

(i) Chapter 19.16 RCW, collection agencies;

(j) Chapter 19.31 RCW, employment agencies;

(k) Chapter 19.105 RCW, camping resorts;

(l) Chapter 19.138 RCW, sellers of travel;

(m) Chapter 42.44 RCW, notaries public; ((~~and~~))

(n) Chapter 64.36 RCW, timeshares; and

(o) Chapter 18.-- RCW (the new chapter created in section 24 of this act).

Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for expenses incurred in carrying out these business and professions licensing activities of the department. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium.

(2) The director shall biennially prepare a budget request based on the anticipated costs of administering the business and professions licensing activities listed in subsection (1) of this section, which shall include the estimated income from these business and professions fees.

Sec. 22. RCW 18.235.020 and 2008 c 119 s 21 are each amended to read as follows:

(1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter 42.44 RCW;

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Security guards under chapter 18.170 RCW;

(xvii) Sellers of travel under chapter 19.138 RCW;

(xviii) Timeshares and timeshare salespersons under chapter 64.36 RCW;

(xix) Whitewater river outfitters under chapter 79A.60 RCW; and

(xx) Home inspectors under chapter 18.280 RCW; and

(xxi) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.-- RCW (the new chapter created in section 24 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The state board of registration for architects established in chapter 18.08 RCW;

(ii) The cemetery board established in chapter 68.05 RCW;

(iii) The Washington state collection agency board established in chapter 19.16 RCW;

(iv) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;

(v) The state board of funeral directors and embalmers established in chapter 18.39 RCW;

(vi) The state board of registration for landscape architects established in chapter 18.96 RCW; and

(vii) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority.

NEW SECTION. **Sec. 23.** The director of licensing and the department of health, beginning on the effective date of this section, may take such steps as are necessary to ensure that this act is implemented July 1, 2010.

NEW SECTION. **Sec. 24.** Sections 1 through 18 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. **Sec. 25.** Sections 1 through 21 of this act take effect July 1, 2010."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5391.

Senators Kastama and Keiser spoke in favor of passage of the motion.

POINT OF INQUIRY

Senator Keiser: "Would the Senator from the Twenty-Fifth District yield to a question? Senator, I'm wondering once this bill becomes law whether you would feel comfortable getting a tattoo yourself?"

Senator Kastama: "Mr. President, I really, I guess absent a court order, I won't answer that."

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5391.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5391 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5391, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5391, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 1; Excused, 1.

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

Voting nay: Senators Holmquist and Ranker

Absent: Senator Tom

Excused: Senator Brown

SUBSTITUTE SENATE BILL NO. 5391, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Marr, Senator Tom was excused.

MESSAGE FROM THE HOUSE

April 1, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5718 with the following amendment: 5718-S AMH PSEP H2768.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 71.09.020 and 2006 c 303 s 10 are each amended to read as follows:

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

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

(2) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, federally approved renal dialysis center or facility, or federally approved blood bank.

(3) "Health care practitioner" means an individual or firm licensed or certified to engage actively in a regulated health profession.

(4) "Health care services" means those services provided by health professionals licensed pursuant to RCW 18.120.020(4).

(5) "Health profession" means those licensed or regulated professions set forth in RCW 18.120.020(4).

(6) "Less restrictive alternative" means court-ordered treatment in a setting less restrictive than total confinement which satisfies the conditions set forth in RCW 71.09.092. A less restrictive alternative may not include placement in the community protection program as pursuant to RCW 71A.12.230.

(7) "Likely to engage in predatory acts of sexual violence if not confined in a secure facility" means that the person more probably than not will engage in such acts if released unconditionally from detention on the sexually violent predator petition. Such likelihood must be evidenced by a recent overt act if the person is not totally confined at the time the petition is filed under RCW 71.09.030.

(8) "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.

(9) "Personality disorder" means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has onset in adolescence or early adulthood, is stable over time and leads to distress or impairment. Purported evidence of a personality disorder must be supported by testimony of a licensed forensic psychologist or psychiatrist.

(10) "Predatory" means acts directed towards: (a) Strangers; (b) individuals with whom a relationship has been established or promoted for the primary purpose of victimization; or (c) persons of casual acquaintance with whom no substantial personal relationship exists.

((~~(10)~~)) (11) "Prosecuting agency" means the prosecuting attorney of the county where the person was convicted or charged or the attorney general if requested by the prosecuting attorney, as provided in RCW 71.09.030.

(12) "Recent overt act" means any act ((~~or~~)), threat, or combination thereof that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm in the mind of an objective person who knows of the history and mental condition of the person engaging in the act or behaviors.

((~~(11)~~)) (13) "Risk potential activity" or "risk potential facility" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. Risk potential activities and facilities include: Public and private schools, school bus stops, licensed day care and licensed preschool facilities, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others identified by the department following the hearings on a potential site required in RCW 71.09.315. For purposes of this chapter, "school bus stops" does not include bus stops established primarily for public transit.

((~~(12)~~)) (14) "Secretary" means the secretary of social and health services or the secretary's designee.

((~~(13)~~)) (15) "Secure facility" means a residential facility for persons civilly confined under the provisions of this chapter that includes security measures sufficient to protect the community. Such facilities include total confinement facilities, secure community transition facilities, and any residence used as a court-ordered placement under RCW 71.09.096.

((~~(14)~~)) (16) "Secure community transition facility" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under this chapter. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facility established pursuant to RCW 71.09.250(1)(a)(i) and any community-based facilities established under this chapter and operated by the secretary or under contract with the secretary.

((~~(15)~~)) (17) "Sexually violent offense" means an act committed on, before, or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as rape in the first degree, rape in the second degree by forcible compulsion, rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties by forcible compulsion, indecent liberties against a child under age fourteen, incest against a child under age fourteen, or child molestation in the first or second degree; (b) a felony offense in effect at any time prior to July 1, 1990, that is comparable to a sexually violent offense as defined in (a) of this subsection, or any federal or out-of-state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this subsection; (c) an act of murder in the first or second degree, assault in the first or second degree, assault of a child in the first or second degree, kidnapping in the first or second degree, burglary in the first degree, residential burglary, or unlawful imprisonment, which act, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this chapter, has been determined beyond a reasonable doubt to have been sexually motivated, as that term is defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the felonies designated in (a), (b), or (c) of this subsection.

((~~(16)~~)) (18) "Sexually violent predator" means any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.

((~~(17)~~)) (19) "Total confinement facility" means a secure facility that provides supervision and sex offender treatment services in a total confinement setting. Total confinement facilities include the special commitment center and any similar facility designated as a total confinement facility by the secretary.

Sec. 2. RCW 71.09.025 and 2008 c 213 s 11 are each amended to read as follows:

(1)(a) When it appears that a person may meet the criteria of a sexually violent predator as defined in RCW 71.09.020 (16), the agency with jurisdiction shall refer the person in writing to the prosecuting attorney of the county ((~~where that person was charged~~)) in which an action under this chapter may be filed pursuant to RCW 71.09.030 and the attorney general, three months prior to:

(i) The anticipated release from total confinement of a person who has been convicted of a sexually violent offense;

(ii) The anticipated release from total confinement of a person found to have committed a sexually violent offense as a juvenile;

(iii) Release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to RCW 10.77.086(4); or

(iv) Release of a person who has been found not guilty by reason of insanity of a sexually violent offense pursuant to RCW 10.77.020(3).

(b) The agency shall provide the ((~~prosecutor~~)) prosecuting agency with all relevant information including but not limited to the following information:

(i) A complete copy of the institutional records compiled by the department of corrections relating to the person, and any such out-of- state department of corrections' records, if available;

(ii) A complete copy, if applicable, of any file compiled by the indeterminate sentence review board relating to the person;

(iii) All records relating to the psychological or psychiatric evaluation and/or treatment of the person;

(iv) A current record of all prior arrests and convictions, and full police case reports relating to those arrests and convictions; and

(v) A current mental health evaluation or mental health records review.

(c) The prosecuting agency has the authority, consistent with RCW 72.09.345(3), to obtain all records relating to the person if the prosecuting agency deems such records are necessary to fulfill its duties under this chapter. The prosecuting agency may only disclose such records in the course of performing its duties pursuant to this chapter, unless otherwise authorized by law.

(d) The prosecuting agency has the authority to utilize the inquiry judge procedures of chapter 10.27 RCW prior to the filing of any action under this chapter to seek the issuance of compulsory process for the production of any records necessary for a determination of whether to seek the civil commitment of a person under this chapter. Any records obtained pursuant to this process may only be disclosed by the prosecuting agency in the course of performing its duties pursuant to this chapter, or unless otherwise authorized by law.

(2) ((~~This section applies to acts committed before, on, or after March 26, 1992.~~

~~(3)~~)) The agency, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

((~~(4)~~)) (3) As used in this section, "agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the department of corrections, the indeterminate sentence review board, and the department of social and health services.

Sec. 3. RCW 71.09.030 and 2008 c 213 s 12 are each amended to read as follows:

(1) A petition may be filed alleging that a person is a sexually violent predator and stating sufficient facts to support such allegation when it appears that: ((~~(1)~~)) (a) A person who at any time previously has been convicted of a sexually violent offense is about to be released from total confinement ((~~on, before, or after July 1, 1990~~)); ((~~(2)~~)) (b) a person found to have committed a sexually violent offense as a juvenile is about to be released from total confinement ((~~on, before, or after July 1, 1990~~)); ((~~(3)~~)) (c) a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial is about to be released, or has been

released ((~~on, before, or after July 1, 1990~~)), pursuant to RCW 10.77.086(4); (((~~(4)~~))) (d) a person who has been found not guilty by reason of insanity of a sexually violent offense is about to be released, or has been released ((~~on, before, or after July 1, 1990~~)), pursuant to RCW 10.77.020(3), 10.77.110 (1) or (3), or 10.77.150; or (((~~(5)~~))) (e) a person who at any time previously has been convicted of a sexually violent offense and has since been released from total confinement and has committed a recent overt act((~~; and it appears that the person may be a sexually violent predator, the prosecuting attorney of the county where the person was convicted or charged or the attorney general if requested by the prosecuting attorney may file a petition alleging that the person is a "sexually violent predator" and stating sufficient facts to support such allegation~~)).

(2) The petition may be filed by:

(a) The prosecuting attorney of a county in which:

(i) The person has been charged or convicted with a sexually violent offense;

(ii) A recent overt act occurred involving a person covered under subsection (1)(e) of this section; or

(iii) The person committed a recent overt act, or was charged or convicted of a criminal offense that would qualify as a recent overt act, if the only sexually violent offense charge or conviction occurred in a jurisdiction other than Washington; or

(b) The attorney general, if requested by the county prosecuting attorney identified in (a) of this subsection. If the county prosecuting attorney requests that the attorney general file and prosecute a case under this chapter, then the county shall charge the attorney general only the fees, including filing and jury fees, that would be charged and paid by the county prosecuting attorney, if the county prosecuting attorney retained the case.

Sec. 4. RCW 71.09.040 and 2001 c 286 s 6 are each amended to read as follows:

(1) Upon the filing of a petition under RCW 71.09.030, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If such determination is made the judge shall direct that the person be taken into custody.

(2) Within seventy-two hours after a person is taken into custody pursuant to subsection (1) of this section, the court shall provide the person with notice of, and an opportunity to appear in person at, a hearing to contest probable cause as to whether the person is a sexually violent predator. In order to assist the person at the hearing, within twenty-four hours of service of the petition, the prosecuting agency shall provide to the person or his or her counsel a copy of all materials provided to the prosecuting agency by the referring agency pursuant to RCW 71.09.025, or obtained by the prosecuting agency pursuant to RCW 71.09.025(1) (c) and (d). At this hearing, the court shall (a) verify the person's identity, and (b) determine whether probable cause exists to believe that the person is a sexually violent predator. At the probable cause hearing, the state may rely upon the petition and certification for determination of probable cause filed pursuant to RCW 71.09.030. The state may supplement this with additional documentary evidence or live testimony. The person may be held in total confinement at the county jail until the trial court renders a decision after the conclusion of the seventy- two hour probable cause hearing. The county shall be entitled to reimbursement for the cost of housing and transporting the person pursuant to rules adopted by the secretary.

(3) At the probable cause hearing, the person shall have the following rights in addition to the rights previously specified: (a) To be represented by counsel; (b) to present evidence on his or her behalf; (c) to cross-examine witnesses who testify against him or her; (d) to view and copy all petitions and reports in the court file. The court must permit a witness called by either party to testify by telephone. Because this is a special proceeding, discovery pursuant to the civil rules shall not occur until after the hearing has been held and the court has issued its decision.

(4) If the probable cause determination is made, the judge shall direct that the person be transferred to an appropriate facility for an evaluation as to whether the person is a sexually violent predator. The evaluation shall be conducted by a person deemed to be professionally qualified to conduct such an examination pursuant to rules developed by the department of social and health services. In adopting such rules, the department of social and health services shall consult with the department of health and the department of corrections. In no event shall the person be released from confinement prior to trial. A witness called by either party shall be permitted to testify by telephone.

Sec. 5. RCW 71.09.050 and 1995 c 216 s 5 are each amended to read as follows:

(1) Within forty-five days after the completion of any hearing held pursuant to RCW 71.09.040, the court shall conduct a trial to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. At all stages of the proceedings under this chapter, any person subject to this chapter shall be entitled to the assistance of counsel, and if the person is indigent, the court shall appoint counsel to assist him or her. The person shall be confined in a secure facility for the duration of the trial.

(2) Whenever any person is subjected to an examination under this chapter, he or she may retain experts or professional persons to perform an examination on their behalf. When the person wishes to be examined by a qualified expert or professional person of his or her own choice, such examiner shall be permitted to have reasonable access to the person for the purpose of such examination, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf.

(3) The person, the prosecuting ((~~attorney or attorney general~~)) agency, or the judge shall have the right to demand that the trial be before a twelve-person jury. If no demand is made, the trial shall be before the court.

Sec. 6. RCW 71.09.060 and 2008 c 213 s 13 are each amended to read as follows:

(1) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. In determining whether or not the person would be likely to engage in predatory acts of sexual violence if not confined in a secure facility, the fact finder may consider only placement conditions and voluntary treatment options that would exist for the person if unconditionally released from detention on the sexually violent predator petition. The community protection program under RCW 71A.12.230 may not be considered as a placement condition or treatment option available to the person if unconditionally released from detention on a sexually violent predator petition. When the determination is made by a jury, the verdict must be unanimous.

If, on the date that the petition is filed, the person was living in the community after release from custody, the state must also

prove beyond a reasonable doubt that the person had committed a recent overt act. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated as provided in RCW 71.09.020(15)(c), the state must prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated as defined in RCW 9.94A.030.

If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of social and health services for placement in a secure facility operated by the department of social and health services for control, care, and treatment until such time as: (a) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative as set forth in RCW 71.09.092 is in the best interest of the person and conditions can be imposed that would adequately protect the community.

If the court or unanimous jury decides that the state has not met its burden of proving that the person is a sexually violent predator, the court shall direct the person's release.

If the jury is unable to reach a unanimous verdict, the court shall declare a mistrial and set a retrial within forty-five days of the date of the mistrial unless the prosecuting agency earlier moves to dismiss the petition. The retrial may be continued upon the request of either party accompanied by a showing of good cause, or by the court on its own motion in the due administration of justice provided that the respondent will not be substantially prejudiced. In no event may the person be released from confinement prior to retrial or dismissal of the case.

(2) If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to ((~~[be]~~)) be or has been released pursuant to RCW 10.77.086(4), and his or her commitment is sought pursuant to subsection (1) of this section, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal under RCW 10.77.086(4) that the person committed the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on his or her own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, it shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

(3) Except as otherwise provided in this chapter, the state shall comply with RCW 10.77.220 while confining the person ((~~pursuant to this chapter, except that~~)). During all court proceedings where the person is present, the person shall be detained in a secure facility. If the proceedings last more than one day, the person may be held in the county jail for the duration of the proceedings, except the person may be returned to the department's custody on weekends and court holidays if the court deems such a transfer feasible. The county shall be entitled to reimbursement for the cost of housing and transporting the person pursuant to rules adopted by the secretary. The department shall not place the person, even temporarily, in a facility on the grounds of any state mental facility or regional habilitation center because these institutions are insufficiently secure for this population.

(4) A court has jurisdiction to order a less restrictive alternative placement only after a hearing ordered pursuant to RCW 71.09.090 following initial commitment under this section and in accord with the provisions of this chapter.

Sec. 7. RCW 71.09.080 and 1995 c 216 s 8 are each amended to read as follows:

(1) Any person subjected to restricted liberty as a sexually violent predator pursuant to this chapter shall not forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided in this chapter, or as otherwise authorized by law.

(2) Any person committed pursuant to this chapter has the right to adequate care and individualized treatment. The department of social and health services shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations made pursuant to this chapter. All such records and reports shall be made available upon request only to: The committed person, his or her attorney, the prosecuting attorney, the court, the protection and advocacy agency, or another expert or professional person who, upon proper showing, demonstrates a need for access to such records.

(3) At the time a person is taken into custody or transferred into a facility pursuant to a petition under this chapter, the professional person in charge of such facility or his or her designee shall take reasonable precautions to inventory and safeguard the personal property of the persons detained or transferred. A copy of the inventory, signed by the staff member making it, shall be given to the person detained and shall, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained person. For purposes of this subsection, "responsible relative" includes the guardian, conservator, attorney, spouse, parent, adult child, or adult brother or sister of the person. The facility shall not disclose the contents of the inventory to any other person without consent of the patient or order of the court.

(4) Nothing in this chapter prohibits a person presently committed from exercising a right presently available to him or her for the purpose of obtaining release from confinement, including the right to petition for a writ of habeas corpus.

(5) No indigent person may be conditionally released or unconditionally discharged under this chapter without suitable clothing, and the secretary shall furnish the person with such sum of money as is required by RCW 72.02.100 for persons without ample funds who are released from correctional institutions. As funds are available, the secretary may provide payment to the indigent persons conditionally released pursuant to this chapter consistent with the optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules to do so.

(6) If a civil commitment petition is dismissed, or a trier of fact determines that a person does not meet civil commitment criteria, the person shall be released within twenty-four hours of service of the release order on the superintendent of the special commitment center, or later by agreement of the person who is the subject of the petition.

Sec. 8. RCW 71.09.090 and 2005 c 344 s 2 are each amended to read as follows:

(1) If the secretary determines that the person's condition has so changed that either: (a) The person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community, the secretary shall authorize the person to petition the court for conditional release to a less restrictive alternative or unconditional discharge. The petition shall be filed with the court and served upon the prosecuting agency responsible for the initial commitment. The court, upon receipt of the petition for conditional release to a less restrictive alternative or unconditional discharge, shall within forty- five days order a hearing.

(2)(a) Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for conditional release to a less restrictive alternative or unconditional discharge without the secretary's approval. The secretary shall provide the committed person with an annual written notice of the person's right to petition the court for conditional release to a less restrictive alternative or unconditional discharge over the secretary's objection. The notice shall contain a waiver of rights. The secretary shall file the notice and waiver form and the annual report with the court. If the person does not affirmatively waive the right to petition, the court shall set a show cause hearing to determine whether probable cause exists to warrant a hearing on whether the person's condition has so changed that: (i) He or she no longer meets the definition of a sexually violent predator; or (ii) conditional release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community.

(b) The committed person shall have a right to have an attorney represent him or her at the show cause hearing, which may be conducted solely on the basis of affidavits or declarations, but the person is not entitled to be present at the show cause hearing. At the show cause hearing, the prosecuting attorney or attorney general shall present prima facie evidence establishing that the committed person continues to meet the definition of a sexually violent predator and that a less restrictive alternative is not in the best interest of the person and conditions cannot be imposed that adequately protect the community. In making this showing, the state may rely exclusively upon the annual report prepared pursuant to RCW 71.09.070. The committed person may present responsive affidavits or declarations to which the state may reply.

(c) If the court at the show cause hearing determines that either: (i) The state has failed to present prima facie evidence that the committed person continues to meet the definition of a sexually violent predator and that no proposed less restrictive alternative is in the best interest of the person and conditions cannot be imposed that would adequately protect the community; or (ii) probable cause exists to believe that the person's condition has so changed that: (A) The person no longer meets the definition of a sexually violent predator; or (B) release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community, then the court shall set a hearing on either or both issues.

(d) If the court has not previously considered the issue of release to a less restrictive alternative, either through a trial on the merits or through the procedures set forth in RCW 71.09.094(1), the court shall consider whether release to a less restrictive alternative would be in the best interests of the person and conditions can be imposed that would adequately protect the community, without considering whether the person's condition has changed. The court may not find probable cause for a trial addressing less restrictive alternatives unless a proposed less restrictive alternative placement meeting the conditions of RCW 71.09.092 is presented to the court at the show cause hearing.

(3)(a) At the hearing resulting from subsection (1) or (2) of this section, the committed person shall be entitled to be present and to the benefit of all constitutional protections that were afforded to the person at the initial commitment proceeding. The prosecuting agency ((~~or the attorney general if requested by the county~~)) shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to a jury trial and the right to have experts evaluate him or her on his or her behalf and the court shall appoint an expert if the person is indigent and requests an appointment.

(b) If the issue at the hearing is whether the person should be unconditionally discharged, the burden of proof shall be upon the state to prove beyond a reasonable doubt that the committed person's condition remains such that the person continues to meet the definition of a sexually violent predator. Evidence of the prior commitment trial and disposition is admissible. The recommitment proceeding shall otherwise proceed as set forth in RCW 71.09.050 and 71.09.060.

(c) If the issue at the hearing is whether the person should be conditionally released to a less restrictive alternative, the burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that conditional release to any proposed less restrictive alternative either: (i) Is not in the best interest of the committed person; or (ii) does not include conditions that would adequately protect the community. Evidence of the prior commitment trial and disposition is admissible.

(4)(a) Probable cause exists to believe that a person's condition has "so changed," under subsection (2) of this section, only when evidence exists, since the person's last commitment trial, or less restrictive alternative revocation proceeding, of a substantial change in the person's physical or mental condition such that the person either no longer meets the definition of a sexually violent predator or that a conditional release to a less restrictive alternative is in the person's best interest and conditions can be imposed to adequately protect the community.

(b) A new trial proceeding under subsection (3) of this section may be ordered, or a trial proceeding may be held, only when there is current evidence from a licensed professional of one of the following and the evidence presents a change in condition since the person's last commitment trial proceeding:

(i) An identified physiological change to the person, such as paralysis, stroke, or dementia, that renders the committed person unable to commit a sexually violent act and this change is permanent; or

(ii) A change in the person's mental condition brought about through positive response to continuing participation in treatment which indicates that the person meets the standard for conditional release to a less restrictive alternative or that the person would be safe to be at large if unconditionally released from commitment.

(c) For purposes of this section, a change in a single demographic factor, without more, does not establish probable cause for a new trial proceeding under subsection (3) of this section. As used in this section, a single demographic factor includes, but is not limited to, a change in the chronological age, marital status, or gender of the committed person.

(5) The jurisdiction of the court over a person civilly committed pursuant to this chapter continues until such time as the person is unconditionally discharged.

Sec. 9. RCW 71.09.092 and 1995 c 216 s 10 are each amended to read as follows:

Before the court may enter an order directing conditional release to a less restrictive alternative, it must find the following: (1) The person will be treated by a treatment provider who is qualified to provide such treatment in the state of Washington under chapter 18.155 RCW; (2) the treatment provider has presented a specific course of treatment and has agreed to assume responsibility for such treatment and will report progress to the court on a regular basis, and will report violations immediately to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the special commitment center; (3) housing exists in Washington that is sufficiently secure to protect the community, and the person or agency providing housing to the conditionally released person has agreed in writing to accept the person, to provide the level of security required by the court, and immediately to report to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the special commitment center if the person leaves the housing to which he or she has been assigned without authorization; (4) the person is willing to comply with the treatment provider and all requirements imposed by the treatment provider and by the court; and (5) the person will be under the supervision of the department of corrections and is willing to comply with supervision requirements imposed by the department of corrections.

Sec. 10. RCW 71.09.096 and 2001 c 286 s 12 are each amended to read as follows:

(1) If the court or jury determines that conditional release to a less restrictive alternative is in the best interest of the person and includes conditions that would adequately protect the community, and the court determines that the minimum conditions set forth in RCW 71.09.092 and in this section are met, the court shall enter judgment and direct a conditional release.

(2) The court shall impose any additional conditions necessary to ensure compliance with treatment and to protect the community. If the court finds that conditions do not exist that will both ensure the person's compliance with treatment and protect the community, then the person shall be remanded to the custody of the department of social and health services for control, care, and treatment in a secure facility as designated in RCW 71.09.060(1).

(3) If the service provider designated by the court to provide inpatient or outpatient treatment or to monitor or supervise any other terms and conditions of a person's placement in a less restrictive alternative is other than the department of social and health services or the department of corrections, then the service provider so designated must agree in writing to provide such treatment, monitoring, or supervision in accord with this section. Any person providing or agreeing to provide treatment, monitoring, or supervision services pursuant to this chapter may be compelled to testify and any privilege with regard to such person's testimony is deemed waived.

(4) Prior to authorizing any release to a less restrictive alternative, the court shall impose such conditions upon the person as are necessary to ensure the safety of the community. The court shall order the department of corrections to investigate the less restrictive alternative and recommend any additional conditions to the court. These conditions shall include, but are not limited to the following: Specification of residence, prohibition of contact with potential or past victims, prohibition of alcohol and other drug use, participation in a specific course of inpatient or outpatient treatment that may include monitoring by the use of polygraph and plethysmograph, monitoring through the use of global positioning satellite technology, supervision by a department of corrections community corrections officer, a requirement that the person remain within the state unless the person receives prior authorization by the court, and any other conditions that the court determines are in the best interest of the person or others. A copy of the conditions of release shall be given to the person and to any designated service providers.

(5) Any service provider designated to provide inpatient or outpatient treatment shall monthly, or as otherwise directed by the court, submit to the court, to the department of social and health services facility from which the person was released, to the ((~~prosecutor of the county in which the person was found to be a sexually violent predator~~)) prosecuting agency, and to the supervising community corrections officer, a report stating whether the person is complying with the terms and conditions of the conditional release to a less restrictive alternative.

(6) Each person released to a less restrictive alternative shall have his or her case reviewed by the court that released him or her no later than one year after such release and annually thereafter until the person is unconditionally discharged. Review may occur in a shorter time or more frequently, if the court, in its discretion on its own motion, or on motion of the person, the secretary, or the prosecuting ((~~attorney~~)) agency so determines. The sole question to be determined by the court is whether the person shall continue to be conditionally released to a less restrictive alternative. The court in making its determination shall be aided by the periodic reports filed pursuant to subsection (5) of this section and the opinions of the secretary and other experts or professional persons.

Sec. 11. RCW 71.09.098 and 2006 c 282 s 1 are each amended to read as follows:

((~~(1) Any service provider submitting reports pursuant to RCW 71.09.096(6), the supervising community corrections officer, the prosecuting attorney, or the attorney general may petition the court, or the court on its own motion may schedule an immediate hearing, for the purpose of revoking or modifying the terms of the person's conditional release to a less restrictive alternative if the petitioner or the court believes the released person is not complying with the terms and conditions of his or her release or is in need of additional care, monitoring, supervision, or treatment.~~

~~(2) If the prosecuting attorney, the supervising community corrections officer, or the court, based upon information received by them, reasonably believes that a conditionally released person is not complying with the terms and conditions of his or her conditional release to a less restrictive alternative, the court or community corrections officer may order that the conditionally released person be apprehended and taken into custody until such time as a hearing can be scheduled to determine the facts and whether or not the person's conditional release should be revoked or modified. A law enforcement officer, who has responded to a request for assistance from a department employee, may apprehend and take into custody the conditionally released person if the law enforcement officer reasonably believes that the conditionally released person is not complying with the terms and conditions of his or her conditional release to a less restrictive alternative. The conditionally released person may be detained in the county jail or returned to the secure community transition facility. The court shall be notified before the close of the next judicial day of the person's apprehension. Both the prosecuting attorney and the conditionally released person shall have the right to request an immediate mental examination of the conditionally released~~

~~person. If the conditionally released person is indigent, the court shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.~~

~~(3) The court, upon receiving notification of the person's apprehension, shall promptly schedule a hearing. The issue to be determined is whether the state has proven by a preponderance of the evidence that the conditionally released person did not comply with the terms and conditions of his or her release. Hearsay evidence is admissible if the court finds it otherwise reliable. At the hearing, the court shall determine whether the person shall continue to be conditionally released on the same or modified conditions or whether his or her conditional release shall be revoked and he or she shall be committed to total confinement, subject to release only in accordance with provisions of this chapter.~~))

(1) Any service provider submitting reports pursuant to RCW 71.09.096(6), the supervising community corrections officer, the prosecuting agency, or the secretary's designee may petition the court for an immediate hearing for the purpose of revoking or modifying the terms of the person's conditional release to a less restrictive alternative if the petitioner believes the released person: (a) Violated or is in violation of the terms and conditions of the court's conditional release order; or (b) is in need of additional care, monitoring, supervision, or treatment.

(2) The community corrections officer or the secretary's designee may restrict the person's movement in the community until the petition is determined by the court. The person may be taken into custody if:

(a) The supervising community corrections officer, the secretary's designee, or a law enforcement officer reasonably believes the person has violated or is in violation of the court's conditional release order; or

(b) The supervising community corrections officer or the secretary's designee reasonably believes that the person is in need of additional care, monitoring, supervision, or treatment because the person presents a danger to himself or herself or others if his or her conditional release under the conditions imposed by the court's release order continues.

(3)(a) Persons taken into custody pursuant to subsection (2) of this section shall:

(i) Not be released until such time as a hearing is held to determine whether to revoke or modify the person's conditional release order and the court has issued its decision; and

(ii) Be held in the county jail, at a secure community transition facility, or at the total confinement facility, at the discretion of the secretary's designee.

(b) The court shall be notified before the close of the next judicial day that the person has been taken into custody and shall promptly schedule a hearing.

(4) Before any hearing to revoke or modify the person's conditional release order, both the prosecuting agency and the released person shall have the right to request an immediate mental examination of the released person. If the conditionally released person is indigent, the court shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.

(5) At any hearing to revoke or modify the conditional release order:

(a) The prosecuting agency shall represent the state, including determining whether to proceed with revocation or modification of the conditional release order;

(b) Hearsay evidence is admissible if the court finds that it is otherwise reliable; and

(c) The state shall bear the burden of proving by a preponderance of the evidence that the person has violated or is in violation of the court's conditional release order or that the person is in need of additional care, monitoring, supervision, or treatment.

(6)(a) If the court determines that the state has met its burden referenced in subsection (5)(c) of this section, and the issue before the court is revocation of the court's conditional release order, the court shall consider the evidence presented by the parties and the following factors relevant to whether continuing the person's conditional release is in the person's best interests or adequate to protect the community:

(i) The nature of the condition that was violated by the person or that the person was in violation of in the context of the person's criminal history and underlying mental conditions;

(ii) The degree to which the violation was intentional or grossly negligent;

(iii) The ability and willingness of the released person to strictly comply with the conditional release order;

(iv) The degree of progress made by the person in community-based treatment; and

(v) The risk to the public or particular persons if the conditional release continues under the conditional release order that was violated.

(b) Any factor alone, or in combination, shall support the court's determination to revoke the conditional release order.

(7) If the court determines the state has met its burden referenced in subsection (5)(c) of this section, and the issue before the court is modification of the court's conditional release order, the court shall modify the conditional release order by adding conditions if the court determines that the person is in need of additional care, monitoring, supervision, or treatment. The court has authority to modify its conditional release order by substituting a new treatment provider, requiring new housing for the person, or imposing such additional supervision conditions as the court deems appropriate.

(8) A person whose conditional release has been revoked shall be remanded to the custody of the secretary for control, care, and treatment in a total confinement facility as designated in RCW 71.09.060(1). The person is thereafter eligible for conditional release only in accord with the provisions of RCW 71.09.090 and related statutes.

NEW SECTION. **Sec. 12.** A new section is added to chapter 71.09 RCW to read as follows:

The department of social and health services shall provide to the prosecuting agency a copy of all reports made by the department to law enforcement in which a person detained or committed under this chapter is named or listed as a suspect, witness, or victim, as well as a copy of all reports received from law enforcement.

Sec. 13. RCW 71.09.112 and 2002 c 19 s 1 are each amended to read as follows:

A person subject to court order under the provisions of this chapter who is thereafter convicted of a criminal offense remains under the jurisdiction of the department and shall be returned to the custody of the department following: (1) Completion of the criminal sentence; or (2) release from confinement in a state, federal, or local correctional facility((~~, and shall be returned to the custody of the department~~)). Any conditional release order shall be immediately revoked upon conviction for a criminal offense.

This section does not apply to persons subject to a court order under the provisions of this chapter who are thereafter sentenced to life without the possibility of release.

Sec. 14. RCW 71.09.350 and 2004 c 38 s 14 are each amended to read as follows:

(1) Examinations and treatment of sexually violent predators who are conditionally released to a less restrictive alternative under this chapter shall be conducted only by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW unless the court or the department of social and health services finds that: (a) The ((~~court-ordered less restrictive alternative placement is located in another state; (b) the~~)) treatment provider is employed by the department; or ((~~(c)~~)) (b)(i) all certified sex offender treatment providers or certified affiliate sex offender treatment providers become unavailable to provide treatment within a reasonable geographic distance of the person's home, as determined in rules adopted by the department of social and health services; and (ii) the evaluation and treatment plan comply with the rules adopted by the department of social and health services.

A treatment provider approved by the department of social and health services under ((~~(c)~~)) (b) of this subsection, who is not certified by the department of health, shall consult with a certified sex offender treatment provider during the person's period of treatment to ensure compliance with the rules adopted by the department of health. The frequency and content of the consultation shall be based on the recommendation of the certified sex offender treatment provider.

(2) A treatment provider, whether or not he or she is employed or approved by the department of social and health services under subsection (1) of this section or otherwise certified, may not perform or provide treatment of sexually violent predators under this section if the treatment provider has been:

(a) Convicted of a sex offense, as defined in RCW 9.94A.030;

(b) Convicted in any other jurisdiction of an offense that under the laws of this state would be classified as a sex offense as defined in RCW 9.94A.030; or

(c) Suspended or otherwise restricted from practicing any health care profession by competent authority in any state, federal, or foreign jurisdiction.

(3) Nothing in this section prohibits a qualified expert from examining or evaluating a sexually violent predator who has been conditionally released for purposes of presenting an opinion in court proceedings.

NEW SECTION. **Sec. 15.** This act applies to all persons currently committed or awaiting commitment under chapter 71.09 RCW either on, before, or after the effective date of this act, whether confined in a secure facility or on conditional release.

NEW SECTION. **Sec. 16.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec. 17.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5718.

Senators Regala and Stevens spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5718.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5718 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5718, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5718, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE SENATE BILL NO. 5718, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5723 with the following amendment: 5723-S AMH WAYS H3094.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.30.530 and 1984 c 77 s 1 are each amended to read as follows:

(1) The board of regents of Washington State University shall establish the Washington State University small business development center.

(2) The center shall provide management and technical assistance including but not limited to training, counseling, and research services to small businesses throughout the state. The center shall work with ((~~public and private community development and economic assistance agencies and shall work towards the goal of coordinating activities with such agencies to avoid duplication of services~~)) the department of community, trade, and economic development, the state board for community and technical colleges, the higher education coordinating board, the workforce training and education coordinating board, the employment security department, the Washington state economic development commission, associate development organizations, and workforce development councils to:

(a) Integrate small business development centers with other state and local economic development and workforce development programs;

(b) Target the centers' services to small businesses;

(c) Tailor outreach and services at each center to the needs and demographics of entrepreneurs and small businesses located within the service area;

(d) Establish and expand small business development center satellite offices when financially feasible; and

(e) Coordinate delivery of services to avoid duplication.

(3) The administrator of the center may contract with other public or private entities for the provision of specialized services.

(4) The small business ((~~and~~)) development center may accept and disburse federal grants or federal matching funds or other funds or donations from any source when made, granted, or donated to carry out the center's purposes. When drawing on funds from the business assistance account created in section 3 of this act, the center must first use the funds to make increased management and technical assistance available to small and start-up businesses at satellite offices. The funds may also be used to develop and expand assistance programs such as small business planning workshops and small business counseling.

(5) The legislature directs the small business development center to request United States small business administration approval of a special emphasis initiative, as permitted under 13 CFR 130.340(c) as of April 1, 2009, to target assistance to Washington state's smaller businesses. This initiative would be negotiated and included in the first cooperative agreement application process that occurs after the effective date of this section.

(6) By December 1, 2009, and December 1, 2010, respectively, the center shall provide a written progress report and a final report to the appropriate committees of the legislature with respect to the requirements in subsections (2) and (5) of this section and the amount and use of funding received through the business assistance account. The reports must also include data on the number, location, staffing, and budget levels of satellite offices; affiliations with community colleges, associate development organizations or other local organizations; the number, size, and type of small businesses assisted; and the types of services provided. The reports must also include information on the outcomes achieved, such as jobs created or retained, private capital invested, and return on the investment of state and federal dollars.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.30 RCW to read as follows:

The business assistance account is created in the custody of the state treasurer. Expenditures from the account may be used only for the expansion of business assistance services delivered by the small business development center created in RCW 28B.30.530. Only the administrator of the center or the administrator's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 3. RCW 30.60.010 and 2008 c 240 s 1 are each amended to read as follows:

(1) In conducting an examination of a bank chartered under Title 30 RCW, the director shall investigate and assess the record of performance of the bank in meeting the credit needs of the bank's entire community, including low and moderate-income neighborhoods. The director shall accept, in lieu of an investigation or part of an investigation required by this section, any report or document that the bank is required to prepare or file with one or more federal agencies by the act of Congress entitled the "Community Reinvestment Act of 1977" and the regulations promulgated in accordance with that act, to the extent such reports or documents assist the director in making an assessment based upon the factors outlined in subsection (2) of this section.

(2) In making an investigation required under subsection (1) of this section, the director shall consider, independent of any federal determination, the following factors in assessing the bank's record of performance:

(a) Activities conducted by the institution to ascertain credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;

(b) The extent of the institution's marketing and special credit related programs to make members of the community aware of the credit services offered by the institution;

(c) The extent of participation by the institution's board of directors in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(d) Any practices intended to discourage applications for types of credit set forth in the institution's community reinvestment act statement(s);

(e) The geographic distribution of the institution's credit extensions, credit applications, and credit denials;

(f) Evidence of prohibited discriminatory or other illegal credit practices;

(g) The institution's record of opening and closing offices and providing services at offices;

(h) The institution's participation, including investments, in local community and microenterprise development projects;

(i) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(j) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(k) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition, and other factors;

(l) The institution's contribution of cash or in-kind support to local or statewide organizations that provide counseling, training, financing, or other services to small businesses; and

(m) Other factors that, in the judgment of the director, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

(3) The director shall include as part of the examination report, a summary of the results of the assessment required under subsection (1) of this section and shall assign annually to each bank a numerical community reinvestment rating based on a one through five scoring system. Such numerical scores shall represent performance assessments as follows:

(a) Excellent performance:	1
(b) Good performance:	2
(c) Satisfactory performance:	3
(d) Inadequate performance:	4
(e) Poor performance:	5

NEW SECTION. **Sec. 4.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules

adopted under this act must meet federal requirements, including guidelines set by the United States small business administration, that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. **Sec. 5.** In addition to providing integrated, tailored management and technical assistance services to Washington small businesses, the legislature intends that the state shall further support them by developing procurement policies, procedures, and materials that encourage and facilitate state agency purchase of products and services from Washington small businesses.

Sec. 6. RCW 39.29.006 and 2002 c 354 s 235 are each amended to read as follows:

As used in this chapter:

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional, and other types of institutions.

(2) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(3) "Common vendor registration and bid notification system" means the internet-based vendor registration and bid notification system maintained by and housed within the department of general administration. The requirements contained in chapter . . ., Laws of 2009 (this act) shall continue to apply to this system, regardless of future changes to its name or management structure.

(4) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services. "Competitive solicitation" includes posting of the contract opportunity on the state's common vendor registration and bid notification system.

((~~(4)~~)) (5) "Consultant" means an independent individual or firm contracting with an agency to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment.

((~~(5)~~)) (6) "Emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate threat to the proper performance of essential functions; or

(b) May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

((~~(6)~~)) (7) "Evidence of competition" means documentation demonstrating that the agency has solicited responses from multiple firms in selecting a consultant. "Evidence of competition" includes documentation that the agency has posted the contract opportunity on the state's common vendor registration and bid notification system.

((~~(7)~~)) (8) "Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This term does not include purchased services as defined under subsection ((~~(9)~~)) (10) of this section. This term does include client services.

((~~(8)~~)) (9) "Personal service contract" means an agreement, or any amendment thereto, with a consultant for the rendering of personal services to the state which is consistent with RCW 41.06.142.

((~~(9)~~)) (10) "Purchased services" means services provided by a vendor to accomplish routine, continuing and necessary functions. This term includes, but is not limited to, services acquired under RCW 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

((~~(10)~~)) (11) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity that is owned and operated independently from all other businesses and has either (a) fifty or fewer employees, or (b) a gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years. As used in this definition, "in-state business" means a business that has its principal office located in Washington and its officers domiciled in Washington.

(12) "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required.

Sec. 7. RCW 39.29.011 and 1998 c 101 s 3 are each amended to read as follows:

All personal service contracts shall be entered into pursuant to competitive solicitation, except for:

(1) Emergency contracts;

(2) Sole source contracts;

(3) Contract amendments;

(4) Contracts between a consultant and an agency of less than twenty thousand dollars. However, contracts of five thousand dollars or greater but less than twenty thousand dollars shall have documented evidence of competition, which must include agency posting of the contract opportunity on the state's common vendor registration and bid notification system. Agencies shall not structure contracts to evade these requirements; and

(5) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process by the director of the office of financial management when it has been determined that a competitive solicitation process is not appropriate or cost-effective.

Sec. 8. RCW 39.29.018 and 1998 c 101 s 5 are each amended to read as follows:

(1) Sole source contracts shall be filed with the office of financial management and made available for public inspection at least ten working days prior to the proposed starting date of the contract. Documented justification for sole source contracts shall be provided to the office of financial management when the contract is filed, and must include evidence that the agency posted the contract opportunity on the state's common vendor registration and bid notification system. For sole source contracts of twenty thousand dollars or more, documented justification shall also include evidence that the agency attempted to identify potential consultants by advertising through statewide or regional newspapers.

(2) The office of financial management shall approve sole source contracts of twenty thousand dollars or more before any such contract becomes binding and before any services may be

performed under the contract. These requirements shall also apply to sole source contracts of less than twenty thousand dollars if the total amount of such contracts between an agency and the same consultant is twenty thousand dollars or more within a fiscal year. Agencies shall ensure that the costs, fees, or rates negotiated in filed sole source contracts of twenty thousand dollars or more are reasonable.

Sec. 9. RCW 39.29.065 and 1998 c 101 s 9 are each amended to read as follows:

To implement this chapter, the director of the office of financial management shall establish procedures for the competitive solicitation and award of personal service contracts, recordkeeping requirements, and procedures for the reporting and filing of contracts. The director shall develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments. For reporting purposes, the director may establish categories for grouping of contracts. The procedures required under this section shall also include the criteria for amending personal service contracts. At the beginning of each biennium, the director may, by administrative policy, adjust the dollar thresholds prescribed in RCW 39.29.011, 39.29.018, and 39.29.040((~~, and 39.29.068~~)) to levels not to exceed the percentage increase in the implicit price deflator. Adjusted dollar thresholds shall be rounded to the nearest five hundred dollar increment.

Sec. 10. RCW 43.19.1905 and 2008 c 215 s 4 are each amended to read as follows:

(1) The director of general administration shall establish overall state policy for compliance by all state agencies, including educational institutions, regarding the following purchasing and material control functions:

(a) Development of a state commodity coding system, including common stock numbers for items maintained in stores for reissue;

(b) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;

(c) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;

(d) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;

(e) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;

(f) Determination of what function data processing equipment, including remote terminals, shall perform in statewide purchasing and material control for improvement of service and promotion of economy;

(g) Standardization of records and forms used statewide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions, including a standard notification form for state agencies to report cost-effective direct purchases, which shall at least identify the price of the goods as available through the division of purchasing, the price of the goods as available from the alternative source, the total savings, and the signature of the notifying agency's director or the director's designee;

(h) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;

(i) Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical stores operations;

(j) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;

(k) Formulation of criteria for determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;

(l) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;

(m) Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture, fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;

(n) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;

(o) Establishment of a formal certification program for state employees who are authorized to perform purchasing functions as agents for the state under the provisions of chapter 43.19 RCW;

(p) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

(q) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and implementation of improved purchasing and material control procedures;

®) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

(s) Resolution of all other purchasing and material matters which require the establishment of overall statewide policy for effective and economical supply management;

(t) Development of guidelines and criteria for the purchase of vehicles, high gas mileage vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including investigations into all opportunities to aggregate the purchasing of clean technologies by state and local governments, and including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002);

(u) Development of goals for state use of recycled or environmentally preferable products through specifications for products and services, processes for requests for proposals and requests for qualifications, contractor selection, and contract negotiations;

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

(w) Development of food procurement procedures and materials that encourage and facilitate the purchase of Washington grown food by state agencies and institutions to the

maximum extent practicable and consistent with international trade agreement commitments; and

((~~(w)~~)) (x) Development of policies requiring all food contracts to include a plan to maximize to the extent practicable and consistent with international trade agreement commitments the availability of Washington grown food purchased through the contract.

(2) ((~~As used in this section,~~)) The department of general administration shall convene a working group including representatives of the office of financial management, the department of information services, and the state printer. The purpose of the working group is to work collaboratively to develop common policies and procedures that encourage and facilitate state government purchases from Washington small businesses, as required in subsection (1)(v) of this section, and in RCW 39.29.065, 43.78.110, and 43.105.041(1)(j). By December 1, 2009, these central services agencies shall jointly provide a written progress report to the governor and legislature on actions taken and planned, barriers identified, and solutions recommended to reach this goal.

(3) The definitions in this subsection apply throughout this section and RCW 43.19.1908.

(a) "Common vendor registration and bid notification system" has the definition in RCW 39.29.006.

(b) "Small business" has the definition in RCW 39.29.006.

(c) "Washington grown" has the definition in RCW 15.64.060.

Sec. 11. RCW 43.19.1908 and 2006 c 363 s 2 are each amended to read as follows:

Competitive bidding required by RCW 43.19.190 through 43.19.1939 shall be solicited by public notice, by posting of the contract opportunity on the state's common vendor registration and bid notification system, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the division of purchasing. Bids may be solicited by the purchasing division from any source thought to be of advantage to the state. All bids shall be in written or electronic form and conform to rules of the division of purchasing.

Sec. 12. RCW 43.78.110 and 1993 c 379 s 107 are each amended to read as follows:

(1) Whenever in the judgment of the public printer certain printing, ruling, binding, or supplies can be secured from private sources more economically than by doing the work or preparing the supplies in the state printing plant, the public printer may obtain such work or supplies from such private sources. The solicitation for the contract opportunity must be posted on the state's common vendor registration and bid notification system. The public printer shall develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of such services or supplies from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments.

(2) In event any work or supplies are secured on behalf of the state under this section the state printing plant shall be entitled to add up to five percent to the cost thereof to cover the handling of the orders which shall be added to the bills and charged to the respective authorities ordering the work or supplies. The five percent handling charge shall not apply to contracts with institutions of higher education.

(3) The definitions in this subsection apply throughout this section.

(a) "Common vendor registration and bid notification system" has the definition in RCW 39.29.006.

(b) "Small business" has the definition in RCW 39.29.006.

Sec. 13. RCW 43.105.041 and 2003 c 18 s 3 are each amended to read as follows:

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

(a) To develop standards and procedures governing the acquisition and disposition of equipment, proprietary software and purchased services, licensing of the radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;

(b) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: PROVIDED, That, agencies and institutions of state government are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200, except that the board, the department, and state agencies, as delegated, must post notices of technology procurement bids on the state's common vendor registration and bid notification system. This subsection (1)(b) does not apply to the legislative branch;

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

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

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

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

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

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

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

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

(ii) Training and education; and

(iii) Project management;

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

(i) To review and approve that portion of the department's budget requests that provides for support to the board; and

(j) To develop procurement policies and procedures, such as unbundled contracting and subcontracting, that encourage and facilitate the purchase of products and services by state agencies

and institutions from Washington small businesses to the maximum extent practicable and consistent with international trade agreement commitments.

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

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

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

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

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

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

Sec. 14. RCW 43.105.020 and 2003 c 18 s 2 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise, the following definitions shall apply:

(1) "Department" means the department of information services;

(2) "Board" means the information services board;

(3) "Committee" means the state interoperability executive committee;

(4) "Local governments" includes all municipal and quasi municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately;

(5) "Director" means the director of the department;

(6) "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. This term includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, telecommunications installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing;

(7) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network;

(8) "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other means;

(9) "Information" includes, but is not limited to, data, text, voice, and video;

(10) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions;

(11) "Information services" means data processing, telecommunications, office automation, and computerized information systems;

(12) "Equipment" means the machines, devices, and transmission facilities used in information processing, such as computers, word processors, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment;

(13) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments;

(14) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications;

(15) "Proprietary software" means that software offered for sale or license;

(16) "Video telecommunications" means the electronic interconnection of two or more sites for the purpose of transmitting and/or receiving visual and associated audio information. Video telecommunications shall not include existing public television broadcast stations as currently designated by the department of community, trade, and economic development under chapter 43.330 RCW;

(17) "K-20 educational network board" or "K-20 board" means the K- 20 educational network board created in RCW 43.105.800;

(18) "K-20 network technical steering committee" or "committee" means the K-20 network technical steering committee created in RCW 43.105.810;

(19) "K-20 network" means the network established in RCW 43.105.820;

(20) "Educational sectors" means those institutions of higher education, school districts, and educational service districts that use the network for distance education, data transmission, and other uses permitted by the K-20 board.

(21) "Common vendor registration and bid notification system" has the definition in RCW 39.29.006.

(22) "Small business" has the definition in RCW 39.29.006."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5723.

Senator Kastama spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5723.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5723 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5723, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5723, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE SENATE BILL NO. 5723, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5725 with the following amendment: 5725-S AMH ENGR H2891.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) A health benefit plan that is issued or renewed on or after January 1, 2010, and that provides coverage for organ and tissue transplants, may not permit a separate lifetime limit on transplants of any less than three hundred fifty thousand dollars. The lifetime limit on transplants shall apply from one day prior to the date of the transplant or the date of hospital admission, for a patient who receives a transplant during the course of a longer hospital stay, through one hundred days after the transplant. Donor-related services may apply to the lifetime limit on transplants any time. The major medical lifetime limit shall apply to health care services provided before and after this time period. Benefits provided are subject to all other terms and conditions of the health benefit plan, including but not limited to any applicable coinsurances, deductibles, and copayments.

(2) "Organ and tissue transplant" means the same as defined under the applicable health benefit plan."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5725.

Senator Keiser spoke in favor of the motion.

POINT OF INQUIRY

Senator Pflug: "Would the lady from the Thirty-Third District yield to a question? Thank you. Senator Keiser, is it your understanding that this change will impact patients already in the hospital when a transplant organ becomes available?"

Senator Keiser: "Thank you for asking Senator Pflug. It is my understanding that patients already in the hospital for chronic health conditions, such as a patient on a mechanical heart, will continue to have the cost of their care applied to major medical coverage or chronic care benefits as part of the underlying medical benefit. The bill provides the transplant care benefits for the specific transplant cost and related services up to one hundred days following the transplant would be covered under the plans transplant benefit. The new one hundred day time frame to calculate the expenses for the transplant costs will help limit the ongoing expenses that get added to a persons transplant cost for years as they continue their antiregection medications."

Senator Pflug spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5725.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5725 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5725, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5725, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE SENATE BILL NO. 5725, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 15, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5746 with the following amendment: 5746-S.E AMH ENGR H2980.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.04.030 and 2005 c 290 s 1 and 2005 c 238 s 1 are each reenacted and amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through ((~~13.34.170~~)) 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age((: ~~PROVIDED, That~~)). If such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters((: ~~PROVIDED FURTHER, That~~)). The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection((: ~~PROVIDED FURTHER, That~~)). Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030;

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: (I) One or more prior serious violent offenses; (II) two or more prior violent offenses; or (III) three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately;

(C) Robbery in the first degree, rape of a child in the first degree, or drive-by shooting, committed on or after July 1, 1997;

(D) Burglary in the first degree committed on or after July 1, 1997, and the juvenile has a criminal history consisting of one or more prior felony or misdemeanor offenses; or

(E) Any violent offense as defined in RCW 9.94A.030 committed on or after July 1, 1997, and the juvenile is alleged to have been armed with a firearm.

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)(E)(II) and (III) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of a lesser included offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall enter an order extending juvenile court jurisdiction if the juvenile has turned eighteen years of age during the adult criminal court proceedings pursuant to RCW 13.40.300. However, once the case is returned to juvenile court, the court may hold a decline hearing pursuant to RCW 13.40.110 to determine whether to retain the case in juvenile court for the purpose of disposition or return the case to adult criminal court for sentencing.

(III) The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e)(v)(A) through (E) of this subsection and remove the proceeding back to juvenile court with the court's approval.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction;

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042; and

(j) Relating to judicial determinations and permanency planning hearings involving developmentally disabled children who have been placed in out-of-home care pursuant to a voluntary placement agreement between the child's parent, guardian, or legal custodian and the department of social and health services.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

Sec. 2. RCW 13.40.020 and 2004 c 120 s 2 are each amended to read as follows:

For the purposes of this chapter:

(1) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(2) Community-based sanctions may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(3) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

(4) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the

department or an order granting a deferred disposition. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(5) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(6) "Court," when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(7) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(8) "Department" means the department of social and health services;

(9) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(10) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(11) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(12) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(13) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) $0-$500 fine;

(17) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(18) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(19) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(20) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

(21) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(22) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(23) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

(24) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been

adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(25) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(26) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

(27) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

(28) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

(29) "Violent offense" means a violent offense as defined in RCW 9.94A.030;

(30) "Youth court" means a diversion unit under the supervision of the juvenile court.

Sec. 3. RCW 13.40.110 and 1997 c 338 s 20 are each amended to read as follows:

(1) Discretionary decline hearing - The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction.

(2) Mandatory decline hearing - Unless waived by the court, the parties, and their counsel, a decline hearing shall be held when:

(a) The respondent is ((~~fifteen,~~)) sixteen((~~,~~)) or seventeen years of age and the information alleges a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony;

(b) The respondent is seventeen years of age and the information alleges assault in the second degree, extortion in the first degree, indecent liberties, child molestation in the second degree, kidnapping in the second degree, or robbery in the second degree; or

(c) The information alleges an escape by the respondent and the respondent is serving a minimum juvenile sentence to age twenty-one.

((~~(2)~~)) (3) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their counsel.

((~~(3)~~)) (4) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing.

Sec. 4. RCW 13.40.308 and 2007 c 199 s 15 are each amended to read as follows:

(1) If a respondent is adjudicated of taking a motor vehicle without permission in the first degree as defined in RCW 9A.56.070, the court shall impose the following minimum sentence, in addition to any restitution the court may order payable to the victim:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes no less than ((~~five days of home detention~~)) three months of community supervision, forty-five hours of community restitution, ((~~and~~)) a two hundred dollar fine, and a requirement that the juvenile remain at home such that the juvenile is confined to a private residence for no less than five days. The juvenile may be subject to electronic monitoring where available. If the juvenile is enrolled in school, the confinement shall be served on nonschool days;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to ((~~[a]~~)) a standard range sentence that includes six months of community supervision, no less than ten days of detention, ninety hours of community restitution, and a four hundred dollar fine; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than fifteen to thirty-six weeks ((~~of confinement, seven days of home detention~~)) commitment to the juvenile rehabilitation administration, four months of parole supervision, ninety hours of community restitution, and a four hundred dollar fine.

(2) If a respondent is adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065, or possession of a stolen vehicle as defined under RCW 9A.56.068, the court shall impose the following minimum sentence, in addition to any restitution the court may order payable to the victim:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes ((~~either: (i) No less than five days of home detention and~~)) no less than three months of community supervision, forty-five hours of community restitution((~~; or (ii) no home detention and ninety hours of community restitution~~)), a two hundred dollar fine, and either ninety hours of community restitution or a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than five days. The juvenile may be subject to electronic monitoring where available;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to ((~~[a]~~)) a standard range sentence that includes no less than six months of community supervision, no less than ten days of detention, ninety hours of community restitution, and a four hundred dollar fine; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than fifteen to thirty-six weeks ((~~of confinement, seven days of home detention~~)) commitment to the juvenile rehabilitation administration, four months of parole supervision, ninety hours of community restitution, and a four hundred dollar fine.

(3) If a respondent is adjudicated of taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075, the court shall impose a standard range as follows:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes ((~~either: (i) No less than one day of home detention, one~~)) three months of community supervision, ((~~and~~)) fifteen hours of community restitution((~~; or (ii) no home detention, one month of supervision, and thirty hours of community restitution~~)), and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than one day. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring where available;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to a standard range sentence that includes no less than one day of detention, ((~~two days of home detention, two~~)) three months of community supervision, thirty hours of community restitution, ((~~and~~)) a one hundred fifty dollar fine, and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than two days. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring where available; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than three days of detention, ((~~seven days of home detention, three~~)) six months of community supervision, forty-five hours of community restitution, ((~~and~~)) a one hundred fifty dollar fine, and a requirement that the juvenile remain at home such that the

juvenile is confined in a private residence for no less than seven days. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring where available."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5746.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5746.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5746 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5746, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5746, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 2; Excused, 0.

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

Voting nay: Senator Carrell

Absent: Senators Brown and Tom

ENGROSSED SUBSTITUTE SENATE BILL NO. 5746, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 20, 2009

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1420 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Fraser moved that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1420.

Senator Fraser spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Fraser that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1420.

The motion by Senator Fraser carried and the Senate receded from its amendments to Substitute House Bill No. 1420 by voice vote.

MOTION

On motion of Senator Fraser, the rules were suspended and Substitute House Bill No. 1420 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1420, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Condotta, Maxwell, Williams, Chandler, Wood, Hinkle and Kelley)

Revising real estate seller disclosure requirements.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 64.06.005 and 2007 c 107 s 2 are each amended to read as follows:

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

(1) "Improved residential real property" means:

(a) Real property consisting of, or improved by, one to four residential dwelling units;

(b) A residential condominium as defined in RCW 64.34.020(9), unless the sale is subject to the public offering statement requirement in the Washington condominium act, chapter 64.34 RCW;

(c) A residential timeshare, as defined in RCW 64.36.010(11), unless subject to written disclosure under the Washington timeshare act, chapter 64.36 RCW; or

(d) A mobile or manufactured home, as defined in RCW 43.22.335 or 46.04.302, that is personal property.

(2) "Residential real property" means both improved and unimproved residential real property.

(3) "Seller disclosure statement" means the form to be completed by the seller of residential real property as prescribed by this chapter.

(4) "Unimproved residential real property" means property zoned for residential use that is not improved by residential dwelling units, a residential condominium, a residential timeshare, or a mobile or manufactured home. It does not include property defined as "timber land" under RCW 84.34.020.

Sec. 2. RCW 64.06.015 and 2007 c 107 s 5 are each amended to read as follows:

(1) In a transaction for the sale of unimproved residential real property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement under RCW 64.06.010, or unless the transfer is otherwise exempt under RCW 64.06.010, deliver to the buyer a completed seller disclosure statement in the following format and that contains, at a minimum, the following information:

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any * items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT. . . . . ("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller . . . . is/ . . . . is not occupying the property.

I. SELLER'S DISCLOSURES:

*If you answer "Yes" to a question with an asterisk (*), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

1. TITLE

[ ] Yes [ ] No [ ] Don't know A. Do you have legal authority to sell the property? If no, please explain.

[ ] Yes [ ] No [ ] Don't know *B. Is title to the property subject to any of the following?
(1) First right of refusal
(2) Option
(3) Lease or rental agreement
(4) Life estate?

[ ] Yes [ ] No [ ] Don't know *C. Are there any encroachments, boundary agreements, or boundary disputes?

[ ] Yes [ ] No [ ] Don't know *D. Is there a private road or easement agreement for access to the property?

[ ] Yes [ ] No [ ] Don't know *E. Are there any rights-of-way, easements, or access limitations that ((~~may~~)) affect the Buyer's use of the property?

[ ] Yes [ ] No [ ] Don't know *F. Are there any written agreements for joint maintenance of an easement or right-of-way?

[ ] Yes [ ] No [ ] Don't know *G. Is there any study, survey project, or notice that would adversely affect the property?

[ ] Yes [ ] No [ ] Don't know *H. Are there any pending or existing assessments against the property?

[ ] Yes [ ] No [ ] Don't know *I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that ((~~would~~)) affect future construction or remodeling?

[ ] Yes [ ] No [ ] Don't know *J. Is there a boundary survey for the property?

[ ] Yes [ ] No [ ] Don't know *K. Are there any covenants, conditions, or restrictions ((~~which affect~~)) recorded against title to the property?

2. WATER

A. Household Water

[ ] Yes [ ] No [ ] Don't know (1) Does the property have potable water supply?

(2) If yes, the source of water for the property is:

[ ] Private or publicly owned water system

[ ] Private well serving only the property

*[ ] Other water system

[ ] Yes [ ] No [ ] Don't know *If shared, are there any written agreements?

[ ] Yes [ ] No [ ] Don't know *(3) Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source?

[ ] Yes [ ] No [ ] Don't know *(4) Are there any ((~~known~~)) problems or repairs needed?

[ ] Yes [ ] No [ ] Don't know (5) Is there a connection or hook-up charge payable before the property can be connected to the water main?

[ ] Yes [ ] No [ ] Don't know (6) Have you obtained a certificate of water availability from the water purveyor serving the property? (If yes, please attach a copy.)

[ ] Yes [ ] No [ ] Don't know (7) Is there a water right permit, certificate, or claim associated with household water supply for the property? (If yes, please attach a copy.)

[ ] Yes [ ] No [ ] Don't know (a) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed?

*(b) If yes, has all or any portion of the water right not been used for five or more successive years? (((~~If yes, please explain.~~)))

. . . . . .

[ ] Yes [ ] No [ ] Don't know (c) If no or don't know, is the water withdrawn from the water source less than 5,000 gallons a day?

[ ] Yes [ ] No [ ] Don't know *(8) Are there any defects in the operation of the water system (e.g., pipes, tank, pump, etc.)?

B. Irrigation Water

[ ] Yes [ ] No [ ] Don't know (1) Are there any irrigation water rights for the property, such as a water right permit, certificate, or claim? (If yes, please attach a copy.)

[ ] Yes [ ] No [ ] Don't know (a) If yes, has all or any portion of the water right not been used for five or more successive years?

[ ] Yes [ ] No [ ] Don't know (b) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed?

[ ] Yes [ ] No [ ] Don't know *(2) Does the property receive irrigation water from a ditch company, irrigation district, or other entity? If so, please identify the entity that supplies irrigation water to the property:

. . . . . .

C. Outdoor Sprinkler System

[ ] Yes [ ] No [ ] Don't know (1) Is there an outdoor sprinkler system for the property?

[ ] Yes [ ] No [ ] Don't know *(2) If yes, are there any defects in the system?

[ ] Yes [ ] No [ ] Don't know *(3) If yes, is the sprinkler system connected to irrigation water?

3. SEWER/SEPTIC SYSTEM

A. The property is served by:

[ ] Public sewer system

[ ] On-site sewage system (including pipes, tanks, drainfields, and all other component parts)

[ ] Other disposal system, please describe:

. . . . . .

[ ] Yes [ ] No [ ] Don't know B. Is the property subject to any sewage system fees or charges in addition to those covered in your regularly billed sewer or on-site sewage system maintenance service?

C. If the property is connected to an on-site sewage system:

[ ] Yes [ ] No [ ] Don't know *(1) Was a permit issued for its construction?

[ ] Yes [ ] No [ ] Don't know *(2) Was it approved by the local health department or district following its construction?

[ ] Yes [ ] No [ ] Don't know (3) Is the septic system a pressurized system?

[ ] Yes [ ] No [ ] Don't know (4) Is the septic system a gravity system?

[ ] Yes [ ] No [ ] Don't know *(5) Have there been any changes or repairs to the on-site sewage system?

[ ] Yes [ ] No [ ] Don't know (6) Is the on-site sewage system, including the drainfield, located entirely within the boundaries of the property?

If no, please explain:

. . . . . .

[ ] Yes [ ] No [ ] Don't know *(7) Does the on-site sewage system require monitoring and maintenance services more frequently than once a year? ((~~If yes, please explain:~~))

. . . . . .

4. ELECTRICAL/GAS

[ ] Yes [ ] No [ ] Don't know A. Is the property served by natural gas?

[ ] Yes [ ] No [ ] Don't know B. Is there a connection charge for gas?

[ ] Yes [ ] No [ ] Don't know C. Is the property served by electricity?

[ ] Yes [ ] No [ ] Don't know D. Is there a connection charge for electricity?

[ ] Yes [ ] No [ ] Don't know *E. Are there any electrical problems on the property? ((~~If yes, please explain:~~))

. . . . . .

5. FLOODING

[ ] Yes [ ] No [ ] Don't know A. ((~~Are there any flooding, standing water, or drainage problems on the property or affecting access to the property? If yes, please explain:~~

. . . . . .

~~[ ] Yes [ ] No [ ] Don't know B.~~)) Is the property located in a government designated flood zone or floodplain?

6. SOIL STABILITY

[ ] Yes [ ] No [ ] Don't know *A. Are there any settlement, earth movement, slides, or similar soil problems on the property? ((~~If yes, please explain:~~

. . . . . .

~~[ ] Yes [ ] No [ ] Don't know B. Does any part of the property contain fill dirt, waste, or other fill material? If yes, please explain:~~))

. . . . . .

7. ENVIRONMENTAL

[ ] Yes [ ] No [ ] Don't know *A. Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?

[ ] Yes [ ] No [ ] Don't know *B. Does any part of the property contain fill dirt, waste, or other fill material?

[ ] Yes [ ] No [ ] Don't know *C. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?

[ ] Yes [ ] No [ ] Don't know D. Are there any shorelines, wetlands, floodplains, or critical areas on the property?

[ ] Yes [ ] No [ ] Don't know *E. Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?

[ ] Yes [ ] No [ ] Don't know *F. Has the property been used for commercial or industrial purposes?

[ ] Yes [ ] No [ ] Don't know *G. Is there any soil or groundwater contamination?

[ ] Yes [ ] No [ ] Don't know *H. Are there transmission poles((~~,~~ transformers,~~ ~~)) or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?

[ ] Yes [ ] No [ ] Don't know *I. Has the property been used as a legal or illegal dumping site?

[ ] Yes [ ] No [ ] Don't know *J. Has the property been used as an illegal drug manufacturing site?

[ ] Yes [ ] No [ ] Don't know *K. Are there any radio towers ((~~in the area~~)) that ((~~may~~)) cause interference with cellular telephone reception?

8. HOMEOWNERS' ASSOCIATION/COMMON INTERESTS

[ ] Yes [ ] No [ ] Don't know A. Is there a homeowners' association?
Name of association:

. . . . . .

[ ] Yes [ ] No [ ] Don't know B. Are there regular periodic assessments:
$ . . . per [ ] Month [ ] Year
[ ] Other . . . . . .

[ ] Yes [ ] No [ ] Don't know *C. Are there any pending special assessments?

[ ] Yes [ ] No [ ] Don't know *D. Are there any shared "common areas" or any joint maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)?

9. OTHER FACTS

[ ] Yes [ ] No [ ] Don't know *A. Are there any disagreements, disputes, encroachments, or legal actions concerning the property? ((~~If yes, please explain:~~))

. . . . . .

[ ] Yes [ ] No [ ] Don't know *B. Does the property have any plants or wildlife that are designated as species ((~~or [of]~~)) of concern, or listed as threatened or endangered by the government?

[ ] Yes [ ] No [ ] Don't know *C. Is the property classified or designated as forest land or open space? ((~~If so, specify:~~))
. . . . . .

[ ] Yes [ ] No [ ] Don't know D. Do you have a forest management plan? If yes, attach.

[ ] Yes [ ] No [ ] Don't know *E. Have any development-related permit applications been submitted to any government agencies? ((~~If so, specify:~~))
. . . . . .
If the answer to E is "yes," what is the status or outcome of those applications?
. . . . . .

10. FULL DISCLOSURE BY SELLERS

A. Other conditions or defects:

[ ] Yes [ ] No [ ] Don't know *Are there any other existing material defects affecting the property that a prospective buyer should know about?

B. Verification:

The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof.

I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE . . . . . SELLER . . . . . SELLER . . . . . .

NOTICE TO BUYER

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

II. BUYER'S ACKNOWLEDGMENT

A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.

B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.

C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.

D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.

E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

DATE . . . . . BUYER . . . . . BUYER. . . . . .

(2) The seller disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement between the buyer and seller of residential property. The seller disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction.

Sec. 3. RCW 64.06.020 and 2007 c 107 s 4 are each amended to read as follows:

(1) In a transaction for the sale of improved residential real property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement under RCW 64.06.010, or unless the transfer is otherwise exempt under RCW 64.06.010, deliver to the buyer a completed seller disclosure statement in the following format and that contains, at a minimum, the following information:

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any * items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT. . . . . .
("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller . . . . is/ . . . . is not occupying the property.

I. SELLER'S DISCLOSURES:

*If you answer "Yes" to a question with an asterisk (*), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

1. TITLE

[ ] Yes [ ] No [ ] Don't know A. Do you have legal authority to sell the property? If no, please explain.

[ ] Yes [ ] No [ ] Don't know *B. Is title to the property subject to any of the following?
(1) First right of refusal
(2) Option
(3) Lease or rental agreement
(4) Life estate?

[ ] Yes [ ] No [ ] Don't know *C. Are there any encroachments, boundary agreements, or boundary disputes?

[ ] Yes [ ] No [ ] Don't know *D. Is there a private road or easement agreement for access to the property?

[ ] Yes [ ] No [ ] Don't know *E. Are there any rights-of-way, easements, or access limitations that may affect the Buyer's use of the property?

[ ] Yes [ ] No [ ] Don't know *F. Are there any written agreements for joint maintenance of an easement or right-of-way?

[ ] Yes [ ] No [ ] Don't know *G. Is there any study, survey project, or notice that would adversely affect the property?

[ ] Yes [ ] No [ ] Don't know *H. Are there any pending or existing assessments against the property?

[ ] Yes [ ] No [ ] Don't know *I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that would affect future construction or remodeling?

[ ] Yes [ ] No [ ] Don't know *J. Is there a boundary survey for the property?

[ ] Yes [ ] No [ ] Don't know *K. Are there any covenants, conditions, or restrictions ((~~which affect~~)) recorded against the property?

2. WATER

A. Household Water

(1) The source of water for the property is:
[ ] Private or publicly owned water system
[ ] Private well serving only the subject property . . . . . .
*[ ] Other water system

[ ] Yes [ ] No [ ] Don't know *If shared, are there any written agreements?

[ ] Yes [ ] No [ ] Don't know *(2) Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source?

[ ] Yes [ ] No [ ] Don't know *(3) Are there any ((~~known~~)) problems or repairs needed?

[ ] Yes [ ] No [ ] Don't know (4) During your ownership, has the source provided an adequate year-round supply of potable water? If no, please explain.

[ ] Yes [ ] No [ ] Don't know *(5) Are there any water treatment systems for the property? If yes, are they [ ]Leased [ ]Owned

[ ] Yes [ ] No [ ] Don't know *(6) Are there any water rights for the property associated with its domestic water supply, such as a water right permit, certificate, or claim?

[ ] Yes [ ] No [ ] Don't know (a) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed?

*(b) If yes, has all or any portion of the water right not been used for five or more successive years? (((~~If yes, please explain.~~)))

[ ] Yes [ ] No [ ] Don't know *(7) Are there any defects in the operation of the water system (e.g. pipes, tank, pump, etc.)?

. . . . . .

B. Irrigation Water

[ ] Yes [ ] No [ ] Don't know (1) Are there any irrigation water rights for the property, such as a water right permit, certificate, or claim?

[ ] Yes [ ] No [ ] Don't know *(a) If yes, has all or any portion of the water right not been used for five or more successive years?

[ ] Yes [ ] No [ ] Don't know *(b) If so, is the certificate available? (If yes, please attach a copy.)

[ ] Yes [ ] No [ ] Don't know *(c) If so, has the water right permit, certificate, or claim been assigned, transferred, or changed? ((~~If so, explain.~~))

. . . . . .

[ ] Yes [ ] No [ ] Don't know *(2) Does the property receive irrigation water from a ditch company, irrigation district, or other entity? If so, please identify the entity that supplies water to the property:

. . . . . .

C. Outdoor Sprinkler System

[ ] Yes [ ] No [ ] Don't know (1) Is there an outdoor sprinkler system for the property?

[ ] Yes [ ] No [ ] Don't know *(2) If yes, are there any defects in the system?((. . . . . .))

[ ] Yes [ ] No [ ] Don't know *(3) If yes, is the sprinkler system connected to irrigation water?

3. SEWER/ON-SITE SEWAGE SYSTEM

A. The property is served by:
[ ] Public sewer system,
[ ] On-site sewage system (including pipes, tanks, drainfields, and all other component parts)
[ ] Other disposal system, please describe:

. . . . . .

[ ] Yes [ ] No [ ] Don't know B. If public sewer system service is available to the property, is the house connected to the sewer main? If no, please explain.

. . . . . .

[ ] Yes [ ] No [ ] Don't know *C. Is the property subject to any sewage system fees or charges in addition to those covered in your regularly billed sewer or on-site sewage system maintenance service?

D. If the property is connected to an on-site sewage system:

[ ] Yes [ ] No [ ] Don't know *(1) Was a permit issued for its construction, and was it approved by the local health department or district following its construction?

(2) When was it last pumped((~~:~~)) ?

. . . .

[ ] Yes [ ] No [ ] Don't know *(3) Are there any defects in the operation of the on-site sewage system?

[ ] Don't know (4) When was it last inspected? . . . .
By whom: . . . . . .

[ ] Don't know (5) For how many bedrooms was the on-site sewage system approved?
. . . . . bedrooms

[ ] Yes [ ] No [ ] Don't know E. Are all plumbing fixtures, including laundry drain, connected to the sewer/on-site sewage system? If no, please explain: . . . . . .

[ ] Yes [ ] No [ ] Don't know *F. Have there been any changes or repairs to the on-site sewage system?

[ ] Yes [ ] No [ ] Don't know G. Is the on-site sewage system, including the drainfield, located entirely within the boundaries of the property? If no, please explain.
. . . . . .

[ ] Yes [ ] No [ ] Don't know *H. Does the on-site sewage system require monitoring and maintenance services more frequently than once a year? ((~~If yes, please explain.~~))
. . . . . .

NOTICE: IF THIS RESIDENTIAL REAL PROPERTY DISCLOSURE STATEMENT IS BEING COMPLETED FOR NEW CONSTRUCTION WHICH HAS NEVER BEEN OCCUPIED, THE SELLER IS NOT REQUIRED TO COMPLETE THE QUESTIONS LISTED IN ITEM 4. STRUCTURAL OR ITEM 5. SYSTEMS AND FIXTURES

4. STRUCTURAL

[ ] Yes [ ] No [ ] Don't know *A. Has the roof leaked within the last five years?

[ ] Yes [ ] No [ ] Don't know *B. Has the basement flooded or leaked?

[ ] Yes [ ] No [ ] Don't know *C. Have there been any conversions, additions, or remodeling?

[ ] Yes [ ] No [ ] Don't know *(1) If yes, were all building permits obtained?

[ ] Yes [ ] No [ ] Don't know *(2) If yes, were all final inspections obtained?

[ ] Yes [ ] No [ ] Don't know D. Do you know the age of the house? If yes, year of original construction:
. . . . . .

[ ] Yes [ ] No [ ] Don't know *E. Has there been any settling, slippage, or sliding of the property or its improvements?

[ ] Yes [ ] No [ ] Don't know *F. Are there any defects with the following: (If yes, please check applicable items and explain.)

Foundations	Decks	Exterior Walls
☐ Chimneys	☐ Interior Walls	☐ Fire Alarm
☐ Doors	☐ Windows	☐ Patio
☐ Ceilings	☐ Slab Floors	☐ Driveways
☐ Pools	☐ Hot Tub	☐ Sauna
☐ Sidewalks	☐ Outbuildings	☐ Fireplaces
☐ Garage Floors	☐ Walkways	☐ Siding
☐ Other	☐ Wood Stoves	

[ ] Yes [ ] No [ ] Don't know *G. Was a structural pest or "whole house" inspection done? If yes, when and by whom was the inspection completed? . . . . . .

[ ] Yes [ ] No [ ] Don't know H. During your ownership, has the property had any wood destroying organism or pest infestation?

[ ] Yes [ ] No [ ] Don't know I. Is the attic insulated?

[ ] Yes [ ] No [ ] Don't know J. Is the basement insulated?

5. SYSTEMS AND FIXTURES

*A. If any of the following systems or fixtures are included with the transfer, are there any defects? If yes, please explain.

[ ] Yes [ ] No [ ] Don't know Electrical system, including wiring, switches, outlets, and service

[ ] Yes [ ] No [ ] Don't know Plumbing system, including pipes, faucets, fixtures, and toilets

[ ] Yes [ ] No [ ] Don't know Hot water tank

[ ] Yes [ ] No [ ] Don't know Garbage disposal

[ ] Yes [ ] No [ ] Don't know Appliances

[ ] Yes [ ] No [ ] Don't know Sump pump

[ ] Yes [ ] No [ ] Don't know Heating and cooling systems

[ ] Yes [ ] No [ ] Don't know Security system
[ ] Owned [ ] Leased

Other .. . .

*B. If any of the following fixtures or property is included with the transfer, are they leased? (If yes, please attach copy of lease.)

[ ] Yes [ ] No [ ] Don't know Security system . . . . . .

[ ] Yes [ ] No [ ] Don't know Tanks (type): . . . . . .

[ ] Yes [ ] No [ ] Don't know Satellite dish . . . . . .

Other: . . . . . .

*C. Are any of the following kinds of wood burning appliances present at the property?

[ ] Yes [ ] No [ ] Don't know (1) Woodstove?

[ ] Yes [ ] No [ ] Don't know (2) Fireplace insert?

[ ] Yes [ ] No [ ] Don't know (3) Pellet stove?

[ ] Yes [ ] No [ ] Don't know (4) Fireplace?

[ ] Yes [ ] No [ ] Don't know If yes, are all of the (1) woodstoves or (2) fireplace inserts certified by the U.S. Environmental Protection Agency as clean burning appliances to improve air quality and public health?

6. HOMEOWNERS' ASSOCIATION/COMMON INTERESTS

[ ] Yes [ ] No [ ] Don't know A. Is there a Homeowners' Association? Name of Association: . . . . . .

[ ] Yes [ ] No [ ] Don't know B. Are there regular periodic assessments:
$ . . . per [ ] Month [ ] Year
[ ] Other . . . . . .

[ ] Yes [ ] No [ ] Don't know *C. Are there any pending special assessments?

[ ] Yes [ ] No [ ] Don't know *D. Are there any shared "common areas" or any joint maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)?

7. ENVIRONMENTAL

[ ] Yes [ ] No [ ] Don't know *A. Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?

[ ] Yes [ ] No [ ] Don't know *B. Does any part of the property contain fill dirt, waste, or other fill material?

[ ] Yes [ ] No [ ] Don't know *C. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?

[ ] Yes [ ] No [ ] Don't know D. Are there any shorelines, wetlands, floodplains, or critical areas on the property?

[ ] Yes [ ] No [ ] Don't know *E. Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?

[ ] Yes [ ] No [ ] Don't know *F. Has the property been used for commercial or industrial purposes?

[ ] Yes [ ] No [ ] Don't know *G. Is there any soil or groundwater contamination?

[ ] Yes [ ] No [ ] Don't know *H. Are there transmission poles((~~, transformers,~~)) or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?

[ ] Yes [ ] No [ ] Don't know *I. Has the property been used as a legal or illegal dumping site?

[ ] Yes [ ] No [ ] Don't know *J. Has the property been used as an illegal drug manufacturing site?

[ ] Yes [ ] No [ ] Don't know *K. Are there any radio towers in the area that ((~~may~~)) cause interference with cellular telephone reception?

8. MANUFACTURED AND MOBILE HOMES

If the property includes a manufactured or mobile home,

[ ] Yes [ ] No [ ] Don't know *A. Did you make any alterations to the home? If yes, please describe the alterations: . . . . . .

[ ] Yes [ ] No [ ] Don't know *B. Did any previous owner make any alterations to the home? ((~~If yes, please describe the alterations: . . . . . .~~))

[ ] Yes [ ] No [ ] Don't know *C. If alterations were made, were permits or variances for these alterations obtained?

9. FULL DISCLOSURE BY SELLERS

A. Other conditions or defects:

[ ] Yes [ ] No [ ] Don't know *Are there any other existing material defects affecting the property that a prospective buyer should know about?

B. Verification:

The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof.

I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE . . . . . SELLER . . . . . .SELLER . . . . . .

NOTICE TO THE BUYER

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

II. BUYER'S ACKNOWLEDGMENT

A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.

B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.

C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.

D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.

E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

DATE . . . . . BUYER . . . . . BUYER. . . . . .

(2) If the disclosure statement is being completed for new construction which has never been occupied, the disclosure statement is not required to contain and the seller is not required to complete the questions listed in item 4. Structural or item 5. Systems and Fixtures.

(3) The seller disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement between the buyer and seller of residential property. The seller disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction.

Sec. 4. RCW 64.06.040 and 1996 c 301 s 4 are each amended to read as follows:

(1) If, after the date that a seller of residential real property completes a real property transfer disclosure statement, the seller ((~~becomes aware~~)) learns from a source other than the buyer or others acting on the buyer's behalf such as an inspector of additional information((~~,~~)) or an adverse change ((~~occurs~~)) which makes any of the disclosures made inaccurate, the seller shall amend the real property transfer disclosure statement, and deliver the amendment to the buyer. No amendment shall be required, however, if the seller takes whatever corrective action is necessary so that the accuracy of the disclosure is restored, or the adverse change is corrected, at least three business days prior to the closing date. Unless the corrective action is completed by the seller prior to the closing date, the buyer shall have the right to exercise one of the following two options: (a) Approving and accepting the amendment, or (b) rescinding the agreement of purchase and sale of the property within three business days after receiving the amended real property transfer disclosure statement. Acceptance or recision shall be subject to the same procedures described in RCW 64.06.030. If the closing date provided in the purchase and sale agreement is scheduled to occur within the three-business-day rescission period provided for in this section, the closing date shall be extended until the expiration of the three-business-day rescission period. The buyer shall have no right of rescission if the seller takes whatever action is necessary so that the accuracy of the disclosure is restored at least three business days prior to the closing date.

(2) In the event any act, occurrence, or agreement arising or becoming known after the closing of a residential real property transfer causes a real property transfer disclosure statement to be inaccurate in any way, the seller of such property shall have no obligation to amend the disclosure statement, and the buyer shall not have the right to rescind the transaction under this chapter.

(3) If the seller in a residential real property transfer fails or refuses to provide to the prospective buyer a real property transfer disclosure statement as required under this chapter, the prospective buyer's right of rescission under this section shall apply until the earlier of three business days after receipt of the real property transfer disclosure statement or the date the transfer has closed, unless the buyer has otherwise waived the right of rescission in writing. Closing is deemed to occur when

the buyer has paid the purchase price, or down payment, and the conveyance document, including a deed or real estate contract, from the seller has been delivered and recorded. After closing, the seller's obligation to deliver the real property transfer disclosure statement and the buyer's rights and remedies under this chapter shall terminate.

NEW SECTION. **Sec. 5.** This act applies prospectively only and not retroactively. It applies only to sales of property that arise on or after the effective date of this section."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Fraser and others to Substitute House Bill No. 1420.

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

MOTION

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

On page 1, line 1 of the title, after "disclosure;" strike the remainder of the title and insert "amending RCW 64.06.005, 64.06.015, 64.06.020, and 64.06.040; and creating a new section."

MOTION

On motion of Senator Fraser, the rules were suspended, Substitute House Bill No. 1420 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1420 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1420 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE HOUSE BILL NO. 1420 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 18, 2009

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1758 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1758.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1758.

The motion by Senator McAuliffe carried and the Senate receded from its amendments to Substitute House Bill No. 1758 by voice vote.

MOTION

On motion of Senator McAuliffe, the rules were suspended and Substitute House Bill No. 1758 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1758, by House Committee on Education (originally sponsored by Representatives Quall, Hope, Wallace, Sullivan, Goodman, Kagi, Santos, Morrell, Hasegawa and Ormsby)

Expanding options for students to earn high school diplomas.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following striking amendment by Senators McAuliffe and King be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature has previously affirmed the value of career and technical education, particularly in programs that lead to nationally recognized certification. These programs provide students with the knowledge and skills to become responsible citizens and contribute to their own economic well-being and that of their families and communities, which is the goal of education in the public schools. The legislature has also previously affirmed the value of dual enrollment in college and high school programs that can lead to both an associate degree and a high school diploma. Therefore, the legislature intends to maximize students' options and choices for completing high school by awarding diplomas to students who complete these valuable postsecondary programs.

Sec. 2. RCW 28B.50.535 and 2007 c 355 s 2 are each amended to read as follows:

A community or technical college may issue a high school diploma or certificate as provided under this section.

(1) An individual who satisfactorily meets the requirements for high school completion shall be awarded a diploma from the college, subject to rules adopted by the superintendent of public instruction and the state board of education.

(2) An individual enrolled through the option established under RCW 28A.600.310 through 28A.600.400 who satisfactorily completes an associate degree, including an associate of arts degree, associate of science degree, associate of technology degree, or associate in applied science degree, shall be awarded a diploma from the college upon written request from the student.

(3) An individual, twenty-one years or older, who enrolls in a community or technical college for the purpose of obtaining an associate degree and who satisfactorily completes an associate degree, including an associate of arts degree, associate of

science degree, associate of technology degree, or associate in applied science degree, shall be awarded a diploma from the college upon written request from the student. Individuals under this subsection are not eligible for funding provided under chapter 28A.150 RCW.

Sec. 3. RCW 28A.225.290 and 1990 1st ex.s. c 9 s 207 are each amended to read as follows:

(1) The superintendent of public instruction shall prepare and annually distribute an information booklet outlining parents' and guardians' enrollment options for their children.

(2) ((~~Before the 1991-92 school year,~~)) The booklet shall be distributed to all school districts by the office of the superintendent of public instruction and shall be posted on the web site of the office of the superintendent of public instruction. School districts shall have a copy of the information booklet available for public inspection at each school in the district, at the district office, and in public libraries.

(3) The booklet shall include:

(a) Information about enrollment options and program opportunities, including but not limited to programs in RCW 28A.225.220, 28A.185.040, 28A.225.200 through 28A.225.215, 28A.225.230 through 28A.225.250, ((~~28A.175.090,~~)) 28A.340.010 through 28A.340.070 (small high school cooperative projects), and 28A.335.160.

(b) Information about the running start((~~, community college or vocational-technical institute choice~~)) program under RCW 28A.600.300 through ((~~28A.600.395~~)) 28A.600.400; ((~~and~~))

(c) Information about the seventh and eighth grade choice program under RCW 28A.230.090; and

(d) Information about the college high school diploma options under RCW 28B.50.535.

Sec. 4. RCW 28A.600.320 and 2008 c 95 s 3 are each amended to read as follows:

A school district shall provide general information about the program to all pupils in grades ten, eleven, and twelve and the parents and guardians of those pupils, including information about the opportunity to enroll in the program through online courses available at community and technical colleges and other state institutions of higher education and including the college high school diploma options under RCW 28B.50.535. To assist the district in planning, a pupil shall inform the district of the pupil's intent to enroll in courses at an institution of higher education for credit. Students are responsible for applying for admission to the institution of higher education.

Sec. 5. RCW 28A.655.061 and 2008 c 321 s 2 are each amended to read as follows:

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

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

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

(4) Beginning no later than with the graduating class of 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement. The state board of education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in performance standards for the tenth grade assessment must comply with RCW 28A.305.130.

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

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

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

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

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

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

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

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

formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

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

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

(iii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

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

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

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

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

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

(iii) Any credit deficiencies;

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

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

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

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

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

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

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

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

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

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

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators McAuliffe and King to Substitute House Bill No. 1758.

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

MOTION

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

On page 1, line 2 of the title, after "diplomas;" strike the remainder of the title and insert "amending RCW 28B.50.535, 28A.225.290, 28A.600.320, and 28A.655.061; and creating a new section."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1758 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTION

On motion of Senator Marr, Senators Prentice and Pridemore were excused.

MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1758 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1758 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Prentice and Pridemore

SUBSTITUTE HOUSE BILL NO. 1758 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 20, 2009

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1553 and asks Senate to recede therefrom.
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1553.

The President declared the question before the Senate to be motion by Senator Kline that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1553.

The motion by Senator Kline carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 1553 by voice vote.

MOTION

On motion of Senator Kline, the rules were suspended and Engrossed Substitute House Bill No. 1553 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1553, by House Committee on Judiciary (originally sponsored by Representatives Takko, Goodman, Williams, Hurst, Pedersen and Campbell)

Addressing claims for damages against the state and local governmental entities.

The measure was read the second time.

MOTION

Senator Kline moved that the following striking amendment by Senators Kline and Fairley be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 4.96.020 and 2006 c 82 s 3 are each amended to read as follows:

(1) The provisions of this section apply to claims for damages against all local governmental entities and their officers, employees, or volunteers, acting in such capacity, except that claims involving injuries from health care are governed solely by the procedures set forth in chapter 7.70 RCW and are exempt from this chapter.

(2) The governing body of each local governmental entity shall appoint an agent to receive any claim for damages made under this chapter. The identity of the agent and the address where he or she may be reached during the normal business hours of the local governmental entity are public records and shall be recorded with the auditor of the county in which the entity is located. All claims for damages against a local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, shall be presented to the agent within the applicable period of limitations within which an action must be commenced. A claim is deemed presented when the claim form is delivered in person or is received by the agent by regular mail, registered mail, or certified mail, with return receipt requested, to the agent or other person designated to accept delivery at the agent's office. The failure of a local governmental entity to comply with the requirements of this section precludes that local governmental entity from raising a defense under this chapter.

(3) ((~~All claims for damages arising out of tortious conduct must locate and describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing the claim in the time prescribed or if the claimant is a minor, or is a nonresident of the state absent therefrom during the time within which the claim is required to be filed, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing the claimant.~~)) For claims for damages presented after the effective date of this section, all claims for damages must be presented on the standard tort claim form that is maintained by the risk management division of the office of financial management, except as allowed under (c) of this subsection. The standard tort claim form must be posted on the office of financial management's web site.

(a) The standard tort claim form must, at a minimum, require the following information:

(i) The claimant's name, date of birth, and contact information;

(ii) A description of the conduct and the circumstances that brought about the injury or damage;

(iii) A description of the injury or damage;

(iv) A statement of the time and place that the injury or damage occurred;

(v) A listing of the names of all persons involved and contact information, if known;

(vi) A statement of the amount of damages claimed; and

(vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

(b) The standard tort claim form must be signed either:

(i) By the claimant, verifying the claim;

(ii) Pursuant to a written power of attorney, by the attorney in fact for the claimant;

(iii) By an attorney admitted to practice in Washington state on the claimant's behalf; or

(iv) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(c) Local governmental entities shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity. If a local governmental entity chooses to also make available its own tort claim form in lieu of the standard tort claim form, the form:

(i) May require additional information beyond what is specified under this section, but the local governmental entity may not deny a claim because of the claimant's failure to provide that additional information;

(ii) Must not require the claimant's social security number; and

(iii) Must include instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity appointed to receive the claim.

(d) If any claim form provided by the local governmental entity fails to require the information specified in this section, or incorrectly lists the agent with whom the claim is to be filed, the local governmental entity is deemed to have waived any defense related to the failure to provide that specific information or to present the claim to the proper designated agent.

(e) Presenting either the standard tort claim form or the local government tort claim form satisfies the requirements of this chapter.

(f) The amount of damages stated on the claim form is not admissible at trial.

(4) No action subject to the claim filing requirements of this section shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim has first been presented to ((~~and filed with~~)) the agent of the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty((~~-~~)) calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

(5) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory.

Sec. 2. RCW 4.92.100 and 2006 c 82 s 1 are each amended to read as follows:

(1) All claims against the state, or against the state's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct, except for claims involving injuries from health care, shall be presented to ((~~and filed with~~)) the risk management division. ((~~All such claims shall be verified and shall accurately describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing the claim or if the claimant is a minor, or is a nonresident of the state, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing the claimant.~~)) Claims involving injuries from health care are governed solely by the procedures set forth in chapter 7.70 RCW and are exempt from this chapter. A claim is deemed presented when the claim form is delivered in person or by regular mail, registered mail, or certified mail, with return receipt requested, to the risk management division. For claims for damages presented after the effective date of this section, all claims for damages must be presented on the standard tort claim form that is maintained by the risk management division. The standard tort claim form must be posted on the office of financial management's web site.

(a) The standard tort claim form must, at a minimum, require the following information:

(i) The claimant's name, date of birth, and contact information;

(ii) A description of the conduct and the circumstances that brought about the injury or damage;

(iii) A description of the injury or damage;

(iv) A statement of the time and place that the injury or damage occurred;

(v) A listing of the names of all persons involved and contact information, if known;

(vi) A statement of the amount of damages claimed; and

(vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

(b) The standard tort claim form must be signed either:

(i) By the claimant, verifying the claim;

(ii) Pursuant to a written power of attorney, by the attorney in fact for the claimant;

(iii) By an attorney admitted to practice in Washington state on the claimant's behalf; or

(iv) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(c) The amount of damages stated on the claim form is not admissible at trial.

(2) The state shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the risk management division. The standard tort claim form must not list the claimant's social security number and must not require information not specified under this section.

(3) With respect to the content of ((~~such~~)) claims under this section and all procedural requirements in this section, this section ((~~shall~~)) must be liberally construed so that substantial compliance will be deemed satisfactory.

Sec. 3. RCW 4.92.110 and 2006 c 82 s 2 are each amended to read as follows:

No action subject to the claim filing requirements of RCW 4.92.100 shall be commenced against the state, or against any state officer, employee, or volunteer, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim is presented to ((~~and filed with~~)) the risk management division. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty((~~-~~)) calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kline and Fairley to Engrossed Substitute House Bill No. 1553.

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

MOTION

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

On page 1, line 2 of the title, after "entities;" strike the remainder of the tile and insert "and amending RCW 4.96.020, 4.92.100, and 4.92.110."

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 1553 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1553 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1553 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Ranker, Regala, Roach, Rockefeller, Shin, Tom and Zarelli

Voting nay: Senators Becker, Brandland, Delvin, Hewitt, Holmquist, Honeyford, King, Pflug, Schoesler, Sheldon, Stevens and Swecker

Excused: Senators Prentice and Pridemore

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1553 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 2:47 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 5:03 p.m. by President Owen.

MESSAGE FROM THE HOUSE

April 22, 2009

MR. PRESIDENT:

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

SUBSTITUTE HOUSE BILL NO. 1103,
HOUSE BILL NO. 1148,
SECOND SUBSTITUTE HOUSE BILL NO. 1172,
SUBSTITUTE HOUSE BILL NO. 1517,
SUBSTITUTE HOUSE BILL NO. 2208,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 18, 2009

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1869 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1869.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 1869.

The motion by Senator Keiser carried and the Senate receded from its amendments to Substitute House Bill No. 1869 by voice vote.

MOTION

On motion of Senator Keiser, the rules were suspended and Substitute House Bill No. 1869 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1869, by House Committee on Health Care & Wellness (originally sponsored by Representatives Bailey, Hinkle, Anderson, Ericksen and Kelley)

Concerning the transparency of health care cost information.

The measure was read the second time.

MOTION

Senator Keiser moved that the following striking amendment by Senators Keiser and Pflug be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1** A new section is added to chapter 70.01 RCW to read as follows:

(1) Health care providers licensed under Title 18 RCW and health care facilities licensed under Title 70 RCW, shall provide the following to a patient upon request:

(a) An estimate of fees and charges related to a specific service, visit, or stay; and

(b) Information regarding other types of fees or charges a patient may receive in conjunction with their visit to the provider or facility. Hospitals licensed under chapter 70.41 RCW may fulfill this requirement by providing a statement and contact information as described in RCW 70.41.400.

(2) Providers and facilities listed in subsection (1) of this section may, after disclosing estimated charges and fees to a patient, refer the patient to the patient's insurer, if applicable, for specific information on the insurer's charges and fees, any cost-sharing responsibilities required of the patient, and the network status of ancillary providers who may or may not share the same network status as the provider or facility.

(3) Except for hospitals licensed under chapter 70.41 RCW, providers and facilities listed in subsection (1) of this section shall post a sign in patient registration areas containing at least

the following language: "Information about the estimated charges of your health services is available upon request. Please do not hesitate to ask for information."

NEW SECTION. **Sec. 2** A new section is added to chapter 70.41 RCW to read as follows:

Hospitals licensed under this chapter shall post a sign in patient registration areas containing at least the following language: "Information about the estimated charges of your hospital services is available upon request. Please do not hesitate to ask for information.""

Senators Keiser and Pflug spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Keiser and Pflug to Substitute House Bill No. 1869.

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

MOTION

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

On page 1, line 1 of the title, after "information;" strike the remainder of the title and insert "and adding a new section to chapter 70.01 RCW, and chapter 70.41 RCW."

MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1869 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1869 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1869 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE HOUSE BILL NO. 1869 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 20, 2009

MR. PRESIDENT:

The Speaker ruled the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1959 to be beyond scope & object of the bill. House refuses to concur in said amendment and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Fairley moved that the Senate recede from its position on amendment number 301 to Engrossed Substitute House Bill No. 1959 and refuses to recede from amendment 270 and pass the bill without Senate amendment number 301.

The President declared the question before the Senate to be motion by Senator Fairley that the Senate recede from its position on amendment number 301 on Engrossed Substitute House Bill No. 1959 and refuses to recede from amendment 270 and pass the bill without Senate amendment number 301.

The motion by Senator Fairley carried and the Senate receded from its position on amendment number 301 to Engrossed Substitute House Bill No. 1959 refuses to recede from amendment 270 and proceeded to pass the bill without Senate amendment number 301.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1959, without the Senate amendment number 301, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

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

Absent: Senator Brown

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1959, without Senate amendment number 301, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

April 20, 2009

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED HOUSE BILL NO. 2040 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate recede from its position on Engrossed House Bill No. 2040 and pass the bill without the Senate amendment(s).

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kohl-Welles that the Senate recede from its position on Engrossed House Bill No. 2040 and pass the bill without Senate amendment(s) by voice vote.

The motion by Senator Kohl-Welles carried and the Senate receded from its position on Engrossed House Bill No. 2040 and pass the bill without the Senate amendment(s).

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2040, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Kline

Excused: Senators Brown and Tom

ENGROSSED HOUSE BILL NO. 2040, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 20, 2009

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2116 and asks Senate to recede therefrom.
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 2116.

The President declared the question before the Senate to be motion by Senator Rockefeller that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 2116.

The motion by Senator Rockefeller carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 2116 by voice vote.

MOTION

On motion of Senator Rockefeller, the rules were suspended and Engrossed Substitute House Bill No. 2116 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2116, by House Committee on Capital Budget (originally sponsored by Representatives Maxwell, Dunshee, Upthegrove, Jacks, Liias and Simpson)

Concerning water pollution control.

The measure was read the second time.

MOTION

Senator Rockefeller moved that the following striking amendment by Senator Rockefeller be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 90.50A.020 and 1993 c 329 s 1 are each amended to read as follows:

(1) The water pollution control revolving fund is hereby established in the state treasury. Moneys in this fund may be spent only after legislative appropriation. Moneys in the fund may be spent only in a manner consistent with this chapter.

(2) The water pollution control revolving fund shall consist of:

(a) All capitalization grants provided by the federal government under the federal water quality act of 1987;

(b) Other moneys provided by the federal government including funds under the American recovery and reinvestment act of 2009 for water pollution control facilities and related activities to achieve federal water pollution requirements;

(c) All state matching funds appropriated or authorized by the legislature;

((~~(c)~~)) (d) Any other revenues derived from gifts or bequests pledged to the state for the purpose of providing financial assistance for water pollution control projects;

((~~(d)~~)) (e) All repayments of moneys borrowed from the fund;

((~~(e)~~)) (f) All interest payments made by borrowers from the fund;

((~~(f)~~)) (g) Any other fee or charge levied in conjunction with administration of the fund; and

((~~(g)~~)) (h) Any new funds as a result of leveraging.

(3) The state treasurer may invest and reinvest moneys in the water pollution control revolving fund in the manner provided by law. All earnings from such investment and reinvestment shall be credited to the water pollution control revolving fund.

Sec. 2. RCW 90.50A.030 and 2007 c 341 s 38 are each amended to read as follows:

The department shall use the moneys in the water pollution control revolving fund to provide financial assistance, as provided in the water quality act of 1987 and ((~~as provided in~~)) RCW 90.50A.040, and pursuant to other federal requirements for achieving state and federal water pollution control for protection of the state's waters:

(1) To make loans, on the condition that:

(a) Such loans are made at or below market interest rates, including interest free loans, at terms not to exceed twenty years;

(b) Annual principal and interest payments will commence not later than one year after completion of any project and all loans will be fully amortized not later ((~~then~~)) than twenty years after project completion;

(c) The recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(d) The fund will be credited with all payments of principal and interest on all loans.

(2) Loans, including additional subsidization to eligible recipients in the form of forgiveness of principal and negative interest loans or grants or any combination thereof, may be made for the following purposes:

(a) To public bodies for the construction or replacement of water pollution control facilities as defined in section 212 of the federal water quality act of 1987;

(b) For the implementation of a management program established under section 319 of the federal water quality act of 1987 relating to the management of nonpoint sources of pollution, subject to the requirements of that act; ((~~and~~))

(c) For development and implementation of a conservation and management plan under section 320 of the federal water quality act of 1987 relating to the national estuary program, subject to the requirements of that act; and

(d) For the planning, design, and construction of publicly owned wastewater treatment facilities, including publicly owned industrial wastewater treatment facilities that relieve a city of the burden of processing industrial wastewater.

(3) The department may also use the money in the water pollution control revolving fund provided by congress for additional subsidization to eligible recipients in the form of forgiveness of principal, negative interest loans or grants or any combination thereof. Uses of forgiveness of principal and negative interest loans or grants include but are not limited to the following purposes:

(a) To public bodies for the construction or replacement of water pollution control facilities as defined in section 212 of the federal water quality act of 1987;

(b) For the implementation of a management program established under section 319 of the federal water quality act of 1987 relating to the management of nonpoint sources of pollution, subject to the requirements of that act;

(c) For development and implementation of a conservation and management plan under section 320 of the federal water quality act of 1987 relating to the national estuary program, subject to the requirements of that act;

(d) For storm water projects; and

(e) For combined sewer overflow projects.

(4) If additional subsidization is made available from moneys provided by congress to eligible recipients in the form of forgiveness of principal or negative interest loans or grants or any combination thereof, the department shall accept applications consistent with this chapter.

(5) The department may also use the moneys in the fund for the following purposes:

(a) To buy or refinance the water pollution control facilities' debt obligations of public bodies at or below market rates, if such debt was incurred after March 7, 1985;

(b) To guarantee, or purchase insurance for, public body obligations for water pollution control facility construction or replacement or activities if the guarantee or insurance would improve credit market access or reduce interest rates, or to provide loans to a public body for this purpose;

(c) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state if the proceeds of the sale of such bonds will be deposited in the fund;

(d) To earn interest on fund accounts; and

(e) To pay the expenses of the department in administering the water pollution control revolving fund according to administrative reserves authorized by federal and state law.

((~~(4)~~)) (6) The department shall present a biennial progress report on the use of moneys from the account to the appropriate committees of the legislature. The report shall consist of a list of each recipient, project description, and amount of the grant, loan, or both.

((~~(5) The department may not use the moneys in the water pollution control revolving fund for grants.~~))

(7) When prioritizing project applications for loans, forgiveness of principal, and negative interest loans or grants or any combination thereof for water pollution control facilities, the department shall consider the following:

(a) The protection and improvement of water quality and public health;

(b) The cost to residential ratepayers if they must finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders, including projects with a history of noncompliance;

(d) Readiness of the project to proceed with planning, design, or construction;

(e) The cost-effectiveness of the project based on an analysis of alternatives, including regionalization;

(f) Whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(g) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(h) Effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under RCW 35.105.050, whether the project is sponsored by an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030;

(i) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(j) The recommendations of the Puget Sound partnership, created in RCW 90.71.210, and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

Sec. 3. RCW 90.50A.040 and 2007 c 341 s 39 are each amended to read as follows:

Moneys deposited in the water pollution control revolving fund shall be administered by the department. In administering the fund, the department shall:

(1) Consistent with RCW 90.50A.030 and 90.50A.080, allocate funds for loans, forgiveness of principal, negative interest loans or grants or any combination thereof in accordance with the annual project priority list in accordance with section 212 of the federal water pollution control act as amended in 1987, and allocate funds under sections 319 and 320 according to the provisions of that act, and allocate funds for separate competitive programs relating to storm water systems, sewer systems, and septic systems prioritized on a worst case first need basis;

(2) Use accounting, audit, and fiscal procedures that conform to generally accepted government accounting standards;

(3) Prepare any reports required by the federal government as a condition to awarding federal capitalization grants;

(4) Adopt by rule any procedures or standards necessary to carry out the provisions of this chapter;

(5) Enter into agreements with the federal environmental protection agency;

(6) Cooperate with local, substate regional, and interstate entities regarding state assessment reports and state management programs related to the nonpoint source management programs as noted in section 319(c) of the federal water pollution control act amendments of 1987 and estuary programs developed under section 320 of that act;

(7) Comply with provisions of the water quality act of 1987; and

(8) After January 1, 2010, not provide funding for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

NEW SECTION. **Sec. 4.** A new section is added to chapter 90.50A RCW to read as follows:

Any public body receiving a loan, forgiveness of principal, or negative interest loan or grant or any combination thereof from the fund shall:

(1) Appear on the annual project priority list to be identified for funding under section 212 of the federal water pollution control act amendments of 1987 or be eligible under sections 319 and 320 of that act;

(2) Submit an application to the department;

(3) Establish and maintain a dedicated source of revenue or other acceptable source of revenue for the repayment of the loan; and

(4) Demonstrate to the satisfaction of the department it has sufficient legal authority to incur the debt for the loan that it is applying for.

Sec. 5. RCW 90.50A.060 and 1988 c 284 s 7 are each amended to read as follows:

If a public body defaults on loan payments due to the fund, the state may withhold any amounts otherwise due to the public body and direct that such funds be applied to the indebtedness and deposited into the account.

Sec. 6. RCW 90.48.110 and 2007 c 343 s 13 are each amended to read as follows:

(1) Except under subsection (2) of this section, all engineering reports, plans, and specifications for the construction of new sewerage systems, sewage treatment or disposal plants or systems, or for improvements or extensions to existing sewerage systems or sewage treatment or disposal plants, and the proposed method of future operation and maintenance of said facility or facilities, shall be submitted to and be approved by the department, before construction thereof may begin. No approval shall be given until the department is satisfied that said plans and specifications and the methods of operation and maintenance submitted are adequate to protect the quality of the state's waters as provided for in this chapter.

(a) The department shall require, through the development of rules, that plans established in this subsection (1) include the following elements:

(i) Reviews and updates of sewer plans on a six-year cycle, including asset management and financial planning;

(ii) An equitable sewer user charge system for residential, commercial, and industrial users to cover all financial obligation of the planned sewer utility;

(iii) Connection fees for new connections to a sewer system that reflect a fair share cost of infrastructure from which new connections will benefit;

(iv) A capital wastewater facilities reserve fund dedicated to paying for wastewater infrastructure and equipment replacement; and

(v) A sewer use ordinance that restricts certain connections and wastes to protect a local government's investment and enhance the wastewater treatment's process stability and effluent quality. The ordinance must, at least:

(A) Require new sewers and connections to be properly designed and constructed;

(B) Require a provision with a timeline and proximity in which existing and future residences must connect to the sewer system;

(C) Prohibit inflow sources into the sewer system; and

(D) Prohibit introduction of toxic or hazardous wastes into the sewer system in an amount or concentration that endangers the public's safety or the physical integrity of the system which may cause violations of the national pollutant discharge elimination system permit or state waste discharge permit.

(b) Approval under this chapter is not required for large on-site sewage systems permitted by the department of health under chapter 70.118B RCW or for on-site sewage systems regulated by local health jurisdictions under rules of the state board of health.

(2) To promote efficiency in service delivery and intergovernmental cooperation in protecting the quality of the state's waters, the department may delegate the authority for review and approval of engineering reports, plans, and specifications for the construction of new sewerage systems, sewage treatment or disposal plants or systems, or for improvements or extensions to existing sewerage system or sewage treatment or disposal plants, and the proposed method of future operations and maintenance of said facility or facilities and industrial pretreatment systems, to local units of government requesting such delegation and meeting criteria established by the department.

(3) For any new or revised general sewer plan submitted for review under this section, the department shall review and either approve, conditionally approve, reject, or request amendments within ninety days of the receipt of the submission of the plan. The department may extend this ninety-day time limitation for new submittals by up to an additional ninety days if insufficient time exists to adequately review the general sewer plan. For rejections of plans or extensions of the timeline, the department shall provide in writing to the local government entity the reason for such action. In addition, the governing body of the local government entity and the department may mutually agree to an extension of the deadlines contained in this section.

Sec. 7. RCW 70.146.070 and 2008 c 299 s 26 are each amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) Except as otherwise conditioned by RCW 70.146.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(f) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(g) Except as otherwise provided in RCW 70.146.120, and effective one calendar year following the development and statewide availability of model evergreen community management plans and ordinances under RCW 35.105.050, whether the project is sponsored by an entity that has been recognized, and what gradation of recognition was received, in the evergreen community recognition program created in RCW 35.105.030;

(h) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(i) The recommendations of the Puget Sound partnership, created in RCW 90.71.210, and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted

a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) When making grants or loans for water pollution control facilities, the department may award grants or provide loans to publicly owned industrial wastewater treatment facilities that relieve a city of the burden of processing industrial wastewater.

(5) After January 1, 2010, any project designed to address the effects of water pollution on Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

Sec. 8. RCW 90.48.290 and 1987 c 109 s 145 are each amended to read as follows:

The department is authorized to make and administer grants within appropriations authorized by the legislature to any municipal or public corporation, or political subdivision within the state for the purpose of aiding in the construction of water pollution control projects necessary to prevent the discharge of untreated or inadequately treated sewage or other waste into the waters of the state including, but not limited to, projects for the control of storm or surface waters which will provide for the removal of waste or polluting materials therefrom.

Grants so made by the department shall be subject to the following limitations:

(1) No grant shall be made in an amount which exceeds the recipient's contribution to the estimated cost of the project: PROVIDED, That the following shall be considered a part of the recipient's contribution:

(a) Any grant received by the recipient from the federal government pursuant to section 8(f) of the Federal Water Pollution Control Act (33 U.S.C. 466) for the project;

(b) Any expenditure which is made by any municipal or public corporation, or political subdivision within the state as a part of a joint effort with the recipient to carry out the project and which has not been used as a matching contribution for another grant made pursuant to this chapter, and

(c) Any expenditure for the project made by the recipient out of moneys advanced by the department from a revolving fund and repayable to said fund.

(2) No grant shall be made for any project which does not qualify for and receive a grant of federal funds under the provisions of the Federal Water Pollution Control Act as now or hereafter amended: PROVIDED, That this restriction shall not apply to state grants made in any biennium over and above the amount of such grants required to match all federal funds allocated to the state for such biennium. As such, grants may be made for the planning, design, and construction of any publicly owned wastewater treatment facilities, including publicly owned industrial wastewater treatment facilities that relieve a city of the burden of processing industrial wastewater.

(3) No grant shall be made to any municipal or public corporation, or political subdivision for any project located within a drainage basin unless the department shall have previously adopted a comprehensive water pollution control and abatement plan and unless the project is found by the department to conform with such basin comprehensive plan: PROVIDED, That the requirement for a project to conform to a comprehensive water pollution control and abatement plan may be waived by the department for any grant application filed with the department prior to July 1, 1974, in those situations where the department finds the public interest would be served better by approval of any grant application made prior to adoption of such plan than by its denial.

(4) Recipients of grants shall meet such qualifications and follow such procedures in applying for grants as shall be established by the department.

(5) Grants may be made to reimburse recipients for expenditures made after July 1, 1967, for projects which meet the requirements of this section and were commenced after the recipient had filed a grant application with the department.

NEW SECTION. **Sec. 9.** The department of ecology may adopt rules to implement this act.

NEW SECTION. **Sec. 10.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Rockefeller to Engrossed Substitute House Bill No. 2116.

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

MOTION

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

On page 1, line 1 of the title, after "control;" strike the remainder of the title and insert "amending RCW 90.50A.020, 90.50A.030, 90.50A.040, 90.50A.060, 90.48.110, 70.146.070, and 90.48.290; adding a new section to chapter 90.50A RCW; creating a new section; and declaring an emergency."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Engrossed Substitute House Bill No. 2116 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2116 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2116 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator Holmquist

Excused: Senators Brown and Tom

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2116 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 18, 2009

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1935 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate recede from its position on the Senate amendments to Engrossed Second Substitute House Bill No. 1935.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate recede from its position on the Senate amendments to Engrossed Second Substitute House Bill No. 1935.

The motion by Senator Keiser carried and the Senate receded from its amendments to Engrossed Second Substitute House Bill No. 1935 by voice vote.

MOTION

On motion of Senator Keiser, the rules were suspended and Engrossed Second Substitute House Bill No. 1935 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1935, by House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Morrell, Walsh, Cody, Orwall, Kenney, Bailey, Miloscia, Green, Kelley and Williams)

Concerning adult family homes.

The measure was read the second time.

MOTION

Senator Keiser moved that the following striking amendment by Senators Keiser and Pflug be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.128.040 and 2007 c 184 s 8 are each amended to read as follows:

(1) The department shall adopt rules and standards with respect to adult family homes and the operators thereof to be licensed under this chapter to carry out the purposes and requirements of this chapter. The rules and standards relating to applicants and operators shall address the differences between individual providers and providers that are partnerships, corporations, associations, or companies. The rules and standards shall also recognize and be appropriate to the different needs and capacities of the various populations served by adult family homes such as but not limited to persons who are developmentally disabled or elderly. In developing rules and standards the department shall recognize the residential family-like nature of adult family homes and not develop rules and standards which by their complexity serve as an overly restrictive barrier to the development of the adult family homes in the state. Procedures and forms established by the department shall be developed so they are easy to understand and comply with. Paper work requirements shall be minimal. Easy to understand materials shall be developed for applicants and providers explaining licensure requirements and procedures.

(2)(a) In developing the rules and standards, the department shall consult with all divisions and administrations within the department serving the various populations living in adult family homes, including the division of developmental disabilities and the aging and adult services administration. Involvement by the divisions and administration shall be for the purposes of assisting the department to develop rules and standards appropriate to the different needs and capacities of the various populations served by adult family homes. During the initial stages of development of proposed rules, the department shall provide notice of development of the rules to organizations representing adult family homes and their residents, and other groups that the department finds appropriate. The notice shall state the subject of the rules under consideration and solicit written recommendations regarding their form and content.

(b) In addition, the department shall engage in negotiated rule making pursuant to RCW 34.05.310(2)(a) with the exclusive representative of the adult family home licensees selected in accordance with RCW 70.128.043 and with other affected interests before adopting requirements that affect adult family home licensees.

(3) Except where provided otherwise, chapter 34.05 RCW shall govern all department rule-making and adjudicative activities under this chapter.

(4) The department shall establish a specialty license to include geriatric specialty certification for providers who have successfully completed the University of Washington school of nursing certified geriatric certification program and testing.

Sec. 2. RCW 70.128.005 and 2001 c 319 s 1 are each amended to read as follows:

(1) The legislature finds that:

(a) Adult family homes are an important part of the state's long- term care system. Adult family homes provide an alternative to institutional care and promote a high degree of independent living for residents.

(b) Persons with functional limitations have broadly varying service needs. Adult family homes that can meet those needs are an essential component of a long-term system. ((~~The legislature further finds that~~)) Different populations living in adult family homes, such as ((~~the developmentally disabled~~)) persons with developmental disabilities and ((~~the~~)) elderly persons, often have significantly different needs and capacities from one another.

(c) There is a need to update certain restrictive covenants to take into consideration the legislative findings cited in (a) and (b) of this subsection; the need to prevent or reduce institutionalization; and the legislative and judicial mandates to provide care and services in the least restrictive setting appropriate to the needs of the individual. Restrictive covenants which directly or indirectly restrict or prohibit the use of property for adult family homes (i) are contrary to the public interest served by establishing adult family homes and (ii) discriminate against individuals with disabilities in violation of RCW 49.60.224.

(2) It is the legislature's intent that department rules and policies relating to the licensing and operation of adult family homes recognize and accommodate the different needs and capacities of the various populations served by the homes. Furthermore, the development and operation of adult family homes that can provide quality personal care and special care services should be encouraged.

(3) The legislature finds that many residents of community-based long-term care facilities are vulnerable and their health and well- being are dependent on their caregivers. The quality, skills, and knowledge of their caregivers are the key to good care. The legislature finds that the need for well-trained caregivers is growing as the state's population ages and residents' needs increase. The legislature intends that current training standards be enhanced.

(4) The legislature finds that the state of Washington has a compelling interest in protecting and promoting the health, welfare, and safety of vulnerable adults residing in adult family homes. The health, safety, and well-being of vulnerable adults must be the paramount concern in determining whether to issue a license to an applicant, whether to suspend or revoke a license, or whether to take other licensing actions.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.128 RCW to read as follows:

(1) To effectuate the public policies of this chapter, restrictive covenants may not limit, directly or indirectly:

(a) Persons with disabilities from living in an adult family home licensed under this chapter; or

(b) Persons and legal entities from operating adult family homes licensed under this chapter, whether for-profit or nonprofit, to provide services covered under this chapter. However, this subsection does not prohibit application of reasonable nondiscriminatory regulation, including but not limited to landscaping standards or regulation of sign location or size, that applies to all residential property subject to the restrictive covenant.

(2) This section applies retroactively to all restrictive covenants in effect on the effective date of this section. Any provision in a restrictive covenant in effect on or after the effective date of this section that is inconsistent with subsection (1) of this section is unenforceable to the extent of the conflict.

NEW SECTION. **Sec. 4.** A new section is added to chapter 64.38 RCW to read as follows:

(1) To effectuate the public policy of chapter 70.128 RCW, the governing documents may not limit, directly or indirectly:

(a) Persons with disabilities from living in an adult family home licensed under chapter 70.128 RCW; or

(b) Persons and legal entities from operating adult family homes licensed under chapter 70.128 RCW, whether for-profit or nonprofit, to provide services covered under chapter 70.128 RCW. However, this subsection does not prohibit application of reasonable nondiscriminatory regulation, including but not limited to landscaping standards or regulation of sign location or size, that applies to all residential property subject to the governing documents.

(2) This section applies retroactively to any governing documents in effect on the effective date of this section. Any provision in a governing document in effect on or after the effective date of this section that is inconsistent with subsection (1) of this section is unenforceable to the extent of the conflict.

Sec. 5. RCW 70.128.060 and 2004 c 140 s 3 are each amended to read as follows:

(1) An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires.

(2) Subject to the provisions of this section, the department shall issue a license to an adult family home if the department finds that the applicant and the home are in compliance with this chapter and the rules adopted under this chapter, unless (a) the applicant or a person affiliated with the applicant has prior violations of this chapter relating to the adult family home subject to the application or any other adult family home, or of any other law regulating residential care facilities within the past five years that resulted in revocation, suspension, or nonrenewal of a license or contract with the department; or (b) the applicant or a person affiliated with the applicant has a history of significant noncompliance with federal, state, or local laws, rules, or regulations relating to the provision of care or services to vulnerable adults or to children. A person is considered affiliated with an applicant if the person is listed on the license application as a partner, officer, director, resident manager, or majority owner of the applying entity, or is the spouse of the applicant.

(3) The license fee shall be submitted with the application.

(4) The department shall serve upon the applicant a copy of the decision granting or denying an application for a license. An applicant shall have the right to contest denial of his or her application for a license as provided in chapter 34.05 RCW by requesting a hearing in writing within twenty-eight days after receipt of the notice of denial.

(5) The department shall not issue a license to a provider if the department finds that the provider or spouse of the provider or any partner, officer, director, managerial employee, or majority owner has a history of significant noncompliance with federal or state regulations, rules, or laws in providing care or services to vulnerable adults or to children.

(6) The department shall license an adult family home for the maximum level of care that the adult family home may provide. The department shall define, in rule, license levels based upon the education, training, and caregiving experience of the licensed provider or staff.

(7) The department shall establish, by rule, standards used to license nonresident providers and multiple facility operators.

(8) The department shall establish, by rule, for multiple facility operators educational standards substantially equivalent to recognized national certification standards for residential care administrators.

(9) The license fee shall be set at ((~~fifty~~)) one hundred dollars per year for each home. ((~~A fifty~~)) An eight hundred dollar processing fee shall also be charged each home when the home is initially licensed. The processing fee will be applied toward the license renewal in the subsequent three years. A five hundred dollar rebate will be returned to any home that renews after four years in operation.

(10) A provider who receives notification of the department's initiation of a denial, suspension, nonrenewal, or revocation of an adult family home license may, in lieu of appealing the department's action, surrender or relinquish the license. The department shall not issue a new license to or contract with the provider, for the purposes of providing care to vulnerable adults or children, for a period of twenty years following the surrendering or relinquishment of the former license. The licensing record shall indicate that the provider relinquished or surrendered the license, without admitting the violations, after receiving notice of the department's initiation of a denial, suspension, nonrenewal, or revocation of a license.

(11) The department shall establish, by rule, the circumstances requiring a change in the licensed provider, which include, but are not limited to, a change in ownership or control of the adult family home or provider, a change in the provider's form of legal organization, such as from sole proprietorship to partnership or corporation, and a dissolution or merger of the licensed entity with another legal organization. The new provider is subject to the provisions of this chapter, the rules adopted under this chapter, and other applicable law. In order to ensure that the safety of residents is not compromised by a change in provider, the new provider is responsible for correction of all violations that may exist at the time of the new license.

NEW SECTION. **Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Senators Keiser and Pflug spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Keiser and Pflug to Engrossed Second Substitute House Bill No. 1935.

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

MOTION

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

On page 1, line 1 of the title, after "homes;" strike the remainder of the title and insert "amending RCW 70.128.040, 70.128.005, and 70.128.060; adding a new section to chapter 70.128 RCW; and adding a new section to chapter 64.38 RCW."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Second Substitute House Bill No. 1935 as amended

by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1935 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1935 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 16; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator Tom

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1935 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1709 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate recede from its position on Engrossed Substitute House Bill No. 1709.

Senators Kohl-Welles and Franklin spoke in favor of the motion.

Senator Benton spoke against the motion.

Senator Eide demanded a roll call vote.

The President declared that one-sixth of the Senate support the demand. The demand is sustained.

MOTION

The President declared the question before the Senate to be motion by Senator Kohl-Welles that the Senate recede from its position on Engrossed Substitute House Bill No. 1709.

ROLL CALL

The Secretary called the roll on the motion by Senator Kohl-Welles and the motion failed by the following vote: Yeas, 24; Nays, 25; Absent, 0; Excused, 0.

Voting yea: Senators Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hobbs, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pridemore, Ranker, Regala, Rockefeller and Tom

Voting nay: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, Jacobsen, Jarrett, King, McCaslin, Morton, Parlette, Pflug, Prentice, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

MOTION

Senator Benton moved that the Senate insist on its position on Engrossed Substitute House Bill No. 1709.

The President declared the question before the Senate to be the motion by Senator Benton that the Senate insist on its position on Engrossed Substitute House Bill No. 1709.

The motion by Senator Benton carried and the Senate insisted on its position on Engrossed Substitute House Bill No. 1709.

MESSAGE FROM THE HOUSE

April 7, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5107 with the following amendment: AMH MORR H3065.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.70C.020 and 1995 c 347 s 703 are each amended to read as follows:

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

(1) "Energy overlay zone" means a formal plan enacted by the county legislative authority that establishes suitable areas for siting renewable resource projects based on currently available resources and existing infrastructure with sensitivity to adverse environmental impact.

(2) "Land use decision" means a final determination by a local jurisdiction's body or officer with the highest level of authority to make the determination, including those with authority to hear appeals, on:

(a) An application for a project permit or other governmental approval required by law before real property may be improved, developed, modified, sold, transferred, or used, but excluding applications for permits or approvals to use, vacate, or transfer streets, parks, and similar types of public property; excluding applications for legislative approvals such as area-wide rezones and annexations; and excluding applications for business licenses;

(b) An interpretative or declaratory decision regarding the application to a specific property of zoning or other ordinances or rules regulating the improvement, development, modification, maintenance, or use of real property; and

(c) The enforcement by a local jurisdiction of ordinances regulating the improvement, development, modification, maintenance, or use of real property. However, when a local jurisdiction is required by law to enforce the ordinances in a court of limited jurisdiction, a petition may not be brought under this chapter.

((~~(2)~~)) (3) "Local jurisdiction" means a county, city, or incorporated town.

((~~(3)~~)) (4) "Person" means an individual, partnership, corporation, association, public or private organization, or governmental entity or agency.

(5) "Renewable resources" has the same meaning provided in RCW 19.280.020.

Sec. 2. RCW 36.70C.130 and 1995 c 347 s 714 are each amended to read as follows:

(1) The superior court, acting without a jury, shall review the record and such supplemental evidence as is permitted under RCW 36.70C.120. The court may grant relief only if the party seeking relief has carried the burden of establishing that one of the standards set forth in (a) through (f) of this subsection has been met. The standards are:

(a) The body or officer that made the land use decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;

(b) The land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;

(c) The land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court;

(d) The land use decision is a clearly erroneous application of the law to the facts;

(e) The land use decision is outside the authority or jurisdiction of the body or officer making the decision; or

(f) The land use decision violates the constitutional rights of the party seeking relief.

(2) In order to grant relief under this chapter, it is not necessary for the court to find that the local jurisdiction engaged in arbitrary and capricious conduct. A grant of relief by itself may not be deemed to establish liability for monetary damages or compensation.

(3) Land use decisions made by a local jurisdiction concerning renewable resource projects within a county energy overlay zone are presumed to be reasonable if they are in compliance with the requirements and standards established by local ordinance for that zone. However, for land use decisions concerning wind power generation projects, either:

(a) The local ordinance for that zone is consistent with the department of fish and wildlife's wind power guidelines; or

(b) The local jurisdiction prepared an environmental impact statement under chapter 43.21C RCW on the energy overlay zone; and

(i) The local ordinance for that zone requires project mitigation, as addressed in the environmental impact statement and consistent with local, state, and federal law;

(ii) The local ordinance for that zone requires site specific fish and wildlife and cultural resources analysis; and

(iii) The local jurisdiction has adopted an ordinance that addresses critical areas under chapter 36.70A RCW.

(4) If a local jurisdiction has taken action and adopted local ordinances consistent with subsection (3)(b) of this section, then wind power generation projects permitted consistently with the energy overlay zone are deemed to have adequately addressed their environmental impacts as required under chapter 43.21C RCW."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Senate Bill No. 5107.

Senators Rockefeller and Honeyford spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Senate Bill No. 5107.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5107 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5107, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5107, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

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

Absent: Senator Tom

SENATE BILL NO. 5107, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 14, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5732 with the following amendment: 732-S AMH TR H2865.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 46.20 RCW to read as follows:

(1)(a) A person who violates RCW 46.20.342(1)(c)(iv) in a jurisdiction that does not have a relicensing diversion program shall be provided with an abstract of his or her driving record by the court or the prosecuting attorney, in addition to a list of his or her unpaid traffic offense related fines and the contact information for each jurisdiction or collection agency to which money is owed.

(b) A fee of up to twenty dollars may be imposed by the court in addition to any fee required by the department for provision of the driving abstract.

(2)(a) Superior courts or courts of limited jurisdiction in counties or cities are authorized to participate or provide relicensing diversion programs to persons who violate RCW 46.20.342(1)(c)(iv).

(b) Eligibility for the relicensing diversion program shall be limited to violators with no more than four convictions under RCW 46.20.342(1)(c)(iv) in the ten years preceding the date of entering the relicensing diversion program, subject to a less restrictive rule imposed by the presiding judge of the county district court or municipal court. People subject to arrest under a warrant are not eligible for the diversion program.

(c) The diversion option may be offered at the discretion of the prosecuting attorney before charges are filed, or by the court after charges are filed.

(d) A person who is the holder of a commercial driver's license or who was operating a commercial motor vehicle at the time of the violation of RCW 46.20.342(1)(c)(iv) may not participate in the diversion program under this section.

(e) A relicensing diversion program that is structured to occur after charges are filed may charge participants a one-time

fee of up to one hundred dollars, which is not subject to chapters 3.50, 3.62, and 35.20 RCW, and shall be used to support administration of the program. The fee of up to one hundred dollars shall be included in the total to be paid by the participant in the relicensing diversion program.

(3) A relicensing diversion program shall be designed to assist suspended drivers to regain their license and insurance and pay outstanding fines.

(4)(a) Counties and cities that operate relicensing diversion programs shall, subject to available funds, provide information to the administrative office of the courts on an annual basis regarding the eligibility criteria used for the program, the number of referrals from law enforcement, the number of participants accepted into the program, the number of participants who regain their driver's license and insurance, the total amount of fines collected, the costs associated with the program, and other information as determined by the office.

(b) The administrative office of the courts is directed, subject to available funds, to compile and analyze the data required to be submitted in this section and develop recommendations for a best practices model for relicensing diversion programs."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5732.

Senator Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5732.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5732 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5732, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5732, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 15; Absent, 0; Excused, 0.

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

Voting nay: Senators Becker, Benton, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Sheldon and Zarelli

SUBSTITUTE SENATE BILL NO. 5732, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

REMARKS BY THE PRESIDENT

President Owen: "It may be helpful for the President to give a little explanation as I see this referring to the House is being somewhat confusing to people. Obviously, you're in concurrence. You have to refer to some of the things that are going on between discussions. What's improper in Reed's Rules, as your rules, is to refer to the actions of the other body to influence the actions of this body. So when you're saying the vote was such and such by the House therefore this body should vote for it, that would be improper or the House wants to do this because of such and such that would be improper. But obviously you have to refer to the other house on occasion. So, the President felt maybe it would be appropriate to provide some explanation of that. I don't want to scare you and not being able to mention the other house."

MESSAGE FROM THE HOUSE

April 13, 2009

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5973 with the following amendment:5973-S2 AMH ENGR H3073.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds compelling evidence from five commissioned studies that additional progress must be made to address the achievement gap. Many students are in demographic groups that are overrepresented in measures such as school disciplinary sanctions; failure to meet state academic standards; failure to graduate; enrollment in special education and underperforming schools; enrollment in advanced placement courses, honors programs, and college preparatory classes; and enrollment in and completion of college. The studies contain specific recommendations that are data-driven and drawn from education research, as well as the personal, professional, and cultural experience of those who contributed to the studies. The legislature finds there is no better opportunity to make a strong commitment to closing the achievement gap and to affirm the state's constitutional obligation to provide opportunities to learn for all students without distinction or preference on account of race, ethnicity, socioeconomic status, or gender.

(2) The legislature further finds that access to comprehensive and consistent data that is disaggregated in the smallest units allowable by law is important in closing the achievement gap. Policymakers and educators need as much information as possible not only about students' academic progress, but also about other factors across multiple disciplines that affect student performance.

(3) A consistent and powerful theme throughout the achievement gap studies was the need for cultural competency in instruction, curriculum, assessment, and professional development. Cultural competency forms a foundation for efforts to address the achievement gap, and more work is needed to embed it into the public school system.

(4) Therefore, following the priority recommendations from the achievement gap studies, the legislature intends to:

(a) Provide resources to support parent and community involvement and outreach efforts by public schools, including such items as additional notices and communication to parents, translations, translators, parent and community meetings, and school events within the community. The legislature encourages school districts to consult with the office of the education ombudsman in developing plans for parent and community involvement and outreach;

(b) Require that teachers demonstrate cultural competency in the classroom and with students at each level of state teacher certification, and provide additional opportunities for

professional development in cultural competency for current teachers;

(c) Create local alternative routes to teacher certification for paraeducators and individuals in the communities surrounding schools and school districts that are struggling to address the achievement gap;

(d) Reexamine the study recommendations regarding data and accountability and identify ways for the education data system to address these needs; and

(e) Sustain efforts to close the achievement gap over the long term by creating a high profile achievement gap oversight and accountability committee that will provide ongoing advice to education agencies and report annually to the legislature and the governor.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) An achievement gap oversight and accountability committee is created to synthesize the findings and recommendations from the 2008 achievement gap studies into an implementation plan, and to recommend policies and strategies to the superintendent of public instruction, the professional educator standards board, and the state board of education to close the achievement gap.

(2) The committee shall recommend specific policies and strategies in at least the following areas:

(a) Supporting and facilitating parent and community involvement and outreach;

(b) Enhancing the cultural competency of current and future educators and the cultural relevance of curriculum and instruction;

(c) Expanding pathways and strategies to prepare and recruit diverse teachers and administrators;

(d) Recommending current programs and resources that should be redirected to narrow the gap;

(e) Identifying data elements and systems needed to monitor progress in closing the gap;

(f) Making closing the achievement gap part of the school and school district improvement process; and

(g) Exploring innovative school models that have shown success in closing the achievement gap.

(3) Taking a multidisciplinary approach, the committee may seek input and advice from other state and local agencies and organizations with expertise in health, social services, gang and violence prevention, substance abuse prevention, and other issues that disproportionately affect student achievement and student success.

(4) The achievement gap oversight and accountability committee shall be composed of the following members:

(a) The chairs and ranking minority members of the house and senate education committees, or their designees;

(b) One additional member of the house of representatives appointed by the speaker of the house and one additional member of the senate appointed by the president of the senate;

(c) A representative of the office of the education ombudsman;

(d) A representative of the center for the improvement of student learning in the office of the superintendent of public instruction;

(e) A representative of federally recognized Indian tribes whose traditional lands and territories lie within the borders of Washington state, designated by the federally recognized tribes; and

(f) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African-Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans.

(5) The governor and the tribes are encouraged to designate members who have experience working in and with schools.

(6) The committee may convene ad hoc working groups to obtain additional input and participation from community members. Members of ad hoc working groups shall serve without compensation and shall not be reimbursed for travel or other expenses.

(7) The chair or cochairs of the committee shall be selected by the members of the committee. Staff support for the committee shall be provided by the center for the improvement of student learning. Members of the committee shall serve without compensation but must be reimbursed as provided in RCW 43.03.050 and 43.03.060. Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

Sec. 3. RCW 28A.300.137 and 2008 c 298 s 3 are each amended to read as follows:

Beginning in January 2010, the ((~~center for the improvement of student learning~~)) achievement gap oversight and accountability committee shall report annually to the superintendent of public instruction, the state board of education, the professional educator standards board, the governor, ((~~the P-20 council,~~)) and the education committees of the legislature on the ((~~implementation status of~~)) strategies to address the achievement gap ((~~for African-American students~~)) and on the progress in improvement of education performance measures for African-American, Hispanic, American Indian/Alaskan Native, Asian, and Pacific Islander/Hawaiian Native students.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.300 RCW to read as follows:

All student data related reports required of the superintendent of public instruction in this title must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, transitional bilingual, migrant, special education, and students covered by section 504 of the federal rehabilitation act of 1973, as amended (29 U.S.C. Sec. 794).

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.410 RCW to read as follows:

(1) The professional educator standards board, in consultation and collaboration with the achievement gap oversight and accountability committee established under section 2 of this act, shall identify a list of model standards for cultural competency and make recommendations to the education committees of the legislature on the strengths and weaknesses of those standards.

(2) For the purposes of this section, "cultural competency" includes knowledge of student cultural histories and contexts, as well as family norms and values in different cultures; knowledge and skills in accessing community resources and community and parent outreach; and skills in adapting instruction to students' experiences and identifying cultural contexts for individual students.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.660 RCW to read as follows:

The office of the superintendent of public instruction shall identify school districts that have the most significant achievement gaps among subgroups of students and for large numbers of those students, and districts that should receive priority for assistance in advancing cultural competency skills in their workforce. The professional educator standards board shall provide assistance to the identified school districts to develop partnership grant programs between the districts and teacher preparation programs to provide one or more of the four alternative route programs under RCW 28A.660.040 and to recruit paraeducators and other individuals in the local community to become certified as teachers. A partnership grant program proposed by an identified school district shall receive priority eligibility for partnership grants under RCW 28A.660.020. To the maximum extent possible, the board shall coordinate the recruiting Washington teachers program under RCW 28A.415.370 with the alternative route programs under this section.

NEW SECTION. **Sec. 7.** The superintendent of public instruction shall take all actions necessary to secure federal funds to support enhancing data collection and data system capacity in order to monitor progress in closing the achievement gap and to support other innovations and model programs that align education reform and address disproportionality in the public school system."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5973.

Senator Kauffman spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kauffman that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5973.

MOTION

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

MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5973 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5973, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5973, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

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

Voting nay: Senators Becker, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senator Tom

SECOND SUBSTITUTE SENATE BILL NO. 5973, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 8, 2009

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6104 with the following amendment: 6104 AMH SGTA MADS 068

On page 1, line 10, after "~~closed~~))." insert "Customary business hours must be posted on the agency or office's web site and made known by other means designed to provide the public with notice."

On page 2, line 8, after "time." insert "Customary business hours must be posted on the agency or office's web site and made known by other means designed to provide the public with notice."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Senate Bill No. 6104.

Senator Prentice spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Senate Bill No. 6104.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6104 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6104, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6104, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SENATE BILL NO. 6104, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 9, 2009

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8404 with the following amendment: 8404-S AMH ENGR H2790.E

Strike everything beginning with line 1 and insert the following:

"WHEREAS, Chapter 238, Laws of 1991 created the workforce training and education coordinating board to provide planning, coordination, evaluation, monitoring, and policy analysis for the state training system as a whole and advice to the governor and legislature concerning the training system, in cooperation with the agencies that comprise the state training system and the higher education coordinating board; and

WHEREAS, Section 2, chapter 130, Laws of 1995 requires the board to update the state comprehensive plan for workforce

training and education and requires the legislature, following public hearings, to approve or make changes to the updates; and

WHEREAS, The state faces the workforce challenges of: (1) Ensuring all Washington youth receive the education, training, and support they need for success in postsecondary education and/or work; (2) providing Washington adults, including those with barriers to education and employment, with access to lifelong education, training, and employment services; and (3) meeting the workforce needs of industry by preparing students, current workers, and dislocated workers with the skills employers need; and

WHEREAS, The state comprehensive plan for 2008 has a ten-year horizon through 2018 and the following eight strategic opportunities on which to focus:

(1) Increase high school graduation rates and ensure youth are prepared for further education and/or work;

(2) Expand the availability of career pathways that span secondary and postsecondary education and training;

(3) Increase postsecondary education and training capacity to close the gap between the need of employers for skilled workers and the supply of Washington residents prepared to meet that need;

(4) Increase financial aid and support services for workforce education students to provide greater access to training and boost retention and completion;

(5) Increase adult basic skills and English language instruction that is integrated with occupational skills training to assist illiterate populations, immigrants, low-income workers, and unemployed individuals to improve their employment opportunities;

(6) Improve coordination between workforce and economic development in key economic clusters through initiatives such as Industry Skill Panels and Centers of Excellence;

(7) Meet employee education and training needs by providing transferrable skills that are generally marketable and lead to career advancement for low-skilled workers through employer and employee accountable customized training, workplace-based learning, flexible methods of education delivery, and cost-efficient new ways of funding employee training; and

(8) Identify barriers for improving and expanding employment, education, and training services and remove those barriers; and

WHEREAS, The state comprehensive plan includes: Assessments of our state's employment opportunities and skills needs, the present and future workforce, three goals, and more than sixty strategies for meeting the workforce challenges; and identifies entities responsible for carrying out the strategies; and

WHEREAS, The workforce training and education coordinating board used an inclusive process of work groups and public hearings and contact with approximately 3,500 individuals to develop consensus on the strategies identified in the plan and has secured the unanimous endorsement of critical constituencies, including business, labor, and the agencies delivering workforce services; and

WHEREAS, The provisions of the comprehensive plan and its updates that are approved by the legislature become the state's workforce policy unless legislation is enacted to alter the policies set forth therein; and

WHEREAS, The legislature recommends that the next update to the 2008-2018 state comprehensive plan for workforce training, "High Skills, High Wages," include an emphasis upon jobs that build the green economy and a strong focus on making Washington a global leader in technology and manufacturing for the renewable energy industry;

NOW, THEREFORE, BE IT RESOLVED, That the Senate of the state of Washington, the House of Representatives concurring, hereby approve the 2008-2018 state comprehensive plan for workforce training, "High Skills, High Wages.""

and the same are herewith transmitted.

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Substitute Senate Concurrent Resolution No. 8404.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Substitute Senate Concurrent Resolution No. 8404.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Substitute Senate Concurrent Resolution No. 8404 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Concurrent Resolution No. 8404, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Concurrent Resolution No. 8404, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8404, as amended by the House, having received the constitutional majority, was declared passed.

MESSAGE FROM THE HOUSE

April 17, 2009

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5850 with the following amendment: 5850-S2.E AMH APPG H3084.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Domestic employers of foreign workers" means a person or persons residing in the state of Washington who recruit or employ a foreign worker to perform work in Washington state.

(2) "Foreign worker" or "worker" means a person who is not a citizen of the United States and who comes to Washington state based on an offer of employment. "Foreign worker" or "worker" does not include persons who hold an H-1B visa and come to work in the state.

(3) "International labor recruitment agency" means a corporation, partnership, business, or other legal entity, whether or not organized under the laws of the United States or any state, that does business in the United States and offers Washington state entities engaged in the employment or recruitment of foreign workers, employment referral services involving citizens

of a foreign country or countries by acting as an intermediary between these foreign workers and Washington employers.

NEW SECTION. **Sec. 2.** (1) Domestic employers of foreign workers and international labor recruitment agencies must provide a disclosure statement as described in this section to foreign workers who have been referred to or hired by a Washington employer.

(2) The disclosure statement must:

(a) Be provided in English or, if the worker is not fluent or literate in English, another language that is understood by the worker;

(b) State that the worker may be considered an employee under the laws of the state of Washington and is subject to state worker health and safety laws and may be eligible for workers' compensation insurance and unemployment insurance;

(c) State that the worker may be subject to both state and federal laws governing overtime and work hours, including the minimum wage act under chapter 49.46 RCW;

(d) Include an itemized listing of any deductions the employer intends to make from the worker's pay for food and housing;

(e) Include an itemized listing of the international labor recruitment agency's fees;

(f) State that the worker has the right to control over his or her travel and labor documents, including his or her visa, at all times and that the employer may not require the employee to surrender those documents to the employer or to the international labor recruitment agency while the employee is working in the United States, except as otherwise required by law or regulation or for use as supporting documentation in visa applications;

(g) Include a list of services or a hot line a worker may contact if he or she thinks that he or she may be a victim of trafficking.

(3) The department of labor and industries may create a model disclosure form and post the model form on its web site so that domestic employers of foreign workers and international labor recruitment agencies may download the form, or mail the form upon request. The disclosure statement must be given to the worker no later than the date that the worker arrives at the place of employment in Washington.

NEW SECTION. **Sec. 3.** For purposes of establishing personal jurisdiction under this chapter, an international labor recruitment agency or a domestic employer of a foreign worker is deemed to be doing business in Washington and is subject to the jurisdiction of the courts of Washington state if the agency or employer contracts for employment services with a Washington resident or is considered to be doing business under any other provision or rule of law.

NEW SECTION. **Sec. 4.** The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

Sec. 5. RCW 18.71.080 and 1996 c 191 s 52 are each amended to read as follows:

(1) Every person licensed to practice medicine in this state shall pay licensing fees and renew his or her license in accordance with administrative procedures and administrative requirements adopted as provided in RCW 43.70.250 and 43.70.280. The commission may establish rules governing mandatory continuing education requirements which shall be met by physicians applying for renewal of licenses. The rules shall provide that mandatory continuing education requirements may be met in part by physicians showing evidence of the completion of approved activities relating to professional liability risk management.

(2) The office of crime victims advocacy shall supply the commission with information on methods of recognizing victims of human trafficking, what services are available for these victims, and where to report potential trafficking situations. The information supplied must be culturally sensitive and must include information relating to minor victims. The commission shall disseminate this information to licensees by: Providing the information on the commission's web site; including the information in newsletters; holding trainings at meetings attended by organization members; or through another distribution method determined by the commission. The commission shall report to the office of crime victims advocacy on the method or methods it uses to distribute information under this subsection.

(3) The commission, in its sole discretion, may permit an applicant who has not renewed his or her license to be licensed without examination if it is satisfied that such applicant meets all the requirements for licensure in this state, and is competent to engage in the practice of medicine.

Sec. 6. RCW 18.83.090 and 1996 c 191 s 68 are each amended to read as follows:

(1) The board shall establish rules governing mandatory continuing education requirements which shall be met by any psychologist applying for a license renewal.

(2) The office of crime victims advocacy shall supply the board with information on methods of recognizing victims of human trafficking, what services are available for these victims, and where to report potential trafficking situations. The information supplied must be culturally sensitive and must include information relating to minor victims. The board shall disseminate this information to licensees by: Providing the information on the board's web site; including the information in newsletters; holding trainings at meetings attended by organization members; or through another distribution method determined by the board. The board shall report to the office of crime victims advocacy on the method or methods it uses to distribute information under this subsection.

(3) Administrative procedures, administrative requirements, and fees for renewal and reissue of licenses shall be established as provided in RCW 43.70.250 and 43.70.280.

Sec. 7. RCW 18.225.040 and 2001 c 251 s 4 are each amended to read as follows:

In addition to any other authority provided by law, the secretary has the authority to:

(1) Adopt rules under chapter 34.05 RCW necessary to implement this chapter. Any rules adopted shall be in consultation with the committee;

(2) Establish all licensing, examination, and renewal fees in accordance with RCW 43.70.250;

(3) Establish forms and procedures necessary to administer this chapter;

(4) Issue licenses to applicants who have met the education, training, and examination requirements for licensure and to deny a license to applicants who do not meet the requirements;

(5) Hire clerical, administrative, investigative, and other staff as needed to implement this chapter, and hire individuals licensed under this chapter to serve as examiners for any practical examinations;

(6) Administer and supervise the grading and taking of examinations for applicants for licensure;

(7) Determine which states have credentialing requirements substantially equivalent to those of this state, and issue licenses to individuals credentialed in those states without examinations;

(8) Implement and administer a program for consumer education in consultation with the committee;

(9) Adopt rules implementing a continuing education program in consultation with the committee;

(10) The office of crime victims advocacy shall supply the committee with information on methods of recognizing victims of human trafficking, what services are available for these victims, and where to report potential trafficking situations. The information supplied must be culturally sensitive and must include information relating to minor victims. The committee shall disseminate this information to licensees by: Providing the information on the committee's web site; including the information in newsletters; holding trainings at meetings attended by organization members; or through another distribution method determined by the committee. The committee shall report to the office of crime victims advocacy on the method or methods it uses to distribute information under this subsection;

(11) Maintain the official record of all applicants and licensees; and

(((~~(11)~~))) (12) Establish by rule the procedures for an appeal of an examination failure.

NEW SECTION. **Sec. 8.** Sections 1 through 4 of this act constitute a new chapter in Title 19 RCW.

NEW SECTION. **Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5850.

Senator Kohl-Welles spoke in favor of the motion.

Senators King and Honeyford spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5850.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5850 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5850, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5850, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Brandland, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Schoesler, Stevens and Zarelli

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5850, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1481, by House Committee on Finance (originally sponsored by Representatives Eddy, Crouse, McCoy, Haler, Carlyle, Armstrong, Hunt, White, Dunshee, Priest, Appleton, Orwall, Rolfes, Hudgins, Hinkle, Upthegrove, Clibborn, Morrell, Ormsby, Kenney, Maxwell, Dickerson and Pedersen)

Regarding electric vehicles.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds the development of electric vehicle infrastructure to be a critical step in creating jobs, fostering economic growth, reducing greenhouse gas emissions, reducing our reliance on foreign fuels, and reducing the pollution of Puget Sound attributable to the operation of petroleum-based vehicles on streets and highways. Limited driving distance between battery charges is a fundamental disadvantage and obstacle to broad consumer adoption of vehicles powered by electricity. In order to eliminate this fundamental disadvantage and dramatically increase consumer acceptance and usage of electric vehicles, it is essential that an infrastructure of convenient electric vehicle charging opportunities be developed. The purpose of this act is to encourage the transition to electric vehicle use and to expedite the establishment of a convenient, cost-effective, electric vehicle infrastructure that such a transition necessitates. The state's success in encouraging this transition will serve as an economic stimulus to the creation of short-term and long-term jobs as the entire automobile industry and its associated direct and indirect jobs transform over time from combustion to electric vehicles.

NEW SECTION. **Sec. 2.** (1) A regional transportation planning organization containing any county with a population in excess of one million in collaboration with representatives from the department of ecology, the department of community, trade, and economic development, local governments, and the office of regulatory assistance must seek federal or private funding for the planning for, deployment of, or regulations concerning electric vehicle infrastructure. These efforts should

include:

(a) Development of short-term and long-term plans outlining how state, regional, and local government construction may include electric vehicle infrastructure in publicly available off-street parking and government fleet vehicle parking, including what ratios of charge spots to parking may be appropriate based on location or type of facility or building;

(b) Consultations with the state building code council and the department of labor and industries to coordinate the plans with state standards for new residential, commercial, and industrial buildings to ensure that the appropriate electric circuitry is installed to support electric vehicle infrastructure;

(c) Consultation with the workforce development council and the higher education coordinating board to ensure the development of appropriate educational and training opportunities for citizens of the state in support of the transition of some portion of vehicular transportation from combustion to electric vehicles;

(d) Development of an implementation plan for counties with a population greater than five hundred thousand with the goal of having public and private parking spaces, in the aggregate, be ten percent electric vehicle ready by December 31, 2018; and

(e) Development of model ordinances and guidance for local governments for siting and installing electric vehicle infrastructure, in particular battery charging stations, and appropriate handling, recycling, and storage of electric vehicle batteries and equipment.

(2) These plans and any recommendations developed as a result of the consultations required by this section must be submitted to the legislature by December 31, 2010, or as soon as reasonably practicable after the securing of any federal or private funding. Priority will be given to the activities in subsection (1)(e) of this section and any ordinances or guidance that is developed will be submitted to the legislature, the department of community, trade, and economic development, and affected local governments prior to December 31, 2010, if completed.

(3) The definitions in this subsection apply through this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.29A RCW to read as follows:

(1) Leasehold excise tax may not be imposed on leases to tenants of public lands for purposes of installing, maintaining, and operating electric vehicle infrastructure.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(3) This section expires January 1, 2020.

NEW SECTION. **Sec. 4.** A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax imposed by RCW 82.08.020 does not apply to:

(a) The sale of batteries for electric vehicles;

(b) The sale of or charge made for labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries;

(c) The sale of or charge made for labor and services rendered in respect to installing, constructing, repairing, or improving electric vehicle infrastructure; and

(d) The sale of tangible personal property that will become a component of electric vehicle infrastructure during the course of installing, constructing, repairing, or improving electric vehicle infrastructure.

(2) Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption certification in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

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

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an

electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(4) This section expires January 1, 2020.

NEW SECTION. **Sec. 5.** A new section is added to chapter 82.12 RCW to read as follows:

(1) The tax imposed by RCW 82.12.020 does not apply to the use of:

(a) Electric vehicle batteries;

(b) Labor and services rendered in respect to installing, repairing, altering, or improving electric vehicle batteries; and

(c) Tangible personal property that will become a component of electric vehicle infrastructure during the course of installing, constructing, repairing, or improving electric vehicle infrastructure.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(3) This section expires January 1, 2020.

NEW SECTION. **Sec. 6.** A new section is added to chapter 79.13 RCW under the subchapter heading "general provisions" to read as follows:

(1) The state and any local government, including any housing authority, is authorized to lease land owned by such an entity to any person for purposes of installing, maintaining, and operating a battery charging station, a battery exchange station, or a rapid charging station, for a term not in excess of fifty years, for rent of not less than one dollar per year, and with such other terms as the public entity's governing body determines in its sole discretion.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

Sec. 7. RCW 43.19.648 and 2007 c 348 s 202 are each amended to read as follows:

(1) Effective June 1, 2015, all state agencies and local government subdivisions of the state, to the extent determined practicable by the rules adopted by the department of community, trade, and economic development pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel.

(2) In order to phase in this transition for the state, all state agencies, to the extent determined practicable by the department of community, trade, and economic development by rules adopted pursuant to RCW 43.325.080, are required to achieve forty percent fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel by June 1, 2013. The department of general administration, in consultation with the department of community, trade, and economic development, shall report to the governor and the legislature by December 1, 2013, on what percentage of the state's fuel usage is from electricity or biofuel.

(3) Except for cars owned or operated by the Washington state patrol, when tires on vehicles in the state's motor vehicle fleet are replaced, they must be replaced with tires that have the same or better rolling resistance as the original tires.

(4) By December 31, 2015, the state must, to the extent practicable, install electrical outlets capable of charging electric vehicles in each of the state's fleet parking and maintenance facilities.

(5) The department of transportation's obligations under subsection (2) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection (2) of this section.

(6) The department of transportation's obligations under subsection (4) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection (4) of this section unless the department receives federal or private funds for the specific purpose identified in subsection (4) of this section.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated

facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

NEW SECTION. **Sec. 8.** A new section is added to chapter 43.21C RCW to read as follows:

(1) The installation of individual battery charging stations and battery exchange stations, which individually are categorically exempt under the rules adopted under RCW 43.21C.110, may not be disqualified from such categorically exempt status as a result of their being parts of a larger proposal that includes other such facilities and related utility networks under the rules adopted under RCW 43.21C.110.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

NEW SECTION. **Sec. 9.** A new section is added to chapter 35.63 RCW to read as follows:

(1) By July 1, 2010, the development regulations of any jurisdiction:

(a) Adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520, with a population over twenty thousand, and located in a county with a population over one million five hundred thousand; or

(b) Adjacent to Interstate 5 and located in a county with a population greater than six hundred thousand; or

(c) Adjacent to Interstate 5 and located in a county with a state capitol within its borders;

planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(2) By July 1, 2011, or six months after the distribution required under section 18 of this act occurs, whichever is later, the development regulations of any jurisdiction adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520 planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(3) By July 1, 2011, or six months after the distribution required under section 18 of this act occurs, whichever is later, the development regulations of any jurisdiction planning under this chapter must allow battery charging stations as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(4) Cities are authorized to adopt incentive programs to encourage the retrofitting of existing structures with the electrical outlets capable of charging electric vehicles. Incentives may include bonus height, site coverage, floor area ratio, and transferable development rights for use in urban growth areas.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(6) If federal funding for public investment in electric vehicles, electric vehicle infrastructure, or alternative fuel distribution infrastructure is not provided by February 1, 2010, subsection (1) of this section is null and void.

NEW SECTION. **Sec. 10.** A new section is added to chapter 35A.63 RCW to read as follows:

(1) By July 1, 2010, the development regulations of any jurisdiction:

(a) Adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520, with a population over twenty thousand, and located in a county with a population over one million five hundred thousand; or

(b) Adjacent to Interstate 5 and located in a county with a population greater than six hundred thousand; or

(c) Adjacent to Interstate 5 and located in a county with a state capitol within its borders;

planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(2) By July 1, 2011, or six months after the distribution required under section 18 of this act occurs, whichever is later, the development regulations of any jurisdiction adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520 planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(3) By July 1, 2011, or six months after the distribution required under section 18 of this act occurs, whichever is later, the development regulations of any jurisdiction planning under this chapter must allow battery charging stations as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(4) Cities are authorized to adopt incentive programs to encourage the retrofitting of existing structures with the electrical outlets capable of charging electric vehicles. Incentives may include bonus height, site coverage, floor area ratio, and transferable development rights for use in urban growth areas.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(6) If federal funding for public investment in electric vehicles, electric vehicle infrastructure, or alternative fuel distribution infrastructure is not provided by February 1, 2010, subsection (1) of this section is null and void.

NEW SECTION. **Sec. 11.** A new section is added to chapter 36.70 RCW to read as follows:

(1) By July 1, 2010, the development regulations of any jurisdiction with a population over six hundred thousand or with a state capitol within its borders planning under this chapter must allow electric vehicle infrastructure as a use in all areas within one mile of Interstate 5, Interstate 90, Interstate 405, or state route number 520, except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(2) By July 1, 2011, or six months after the distribution required under section 18 of this act occurs, whichever is later, the development regulations of any jurisdiction planning under this chapter must allow electric vehicle infrastructure as a use in all areas within one mile of Interstate 5, Interstate 90, Interstate 405, or state route number 520, except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(3) By July 1, 2011, or six months after the distribution required under section 18 of this act occurs, whichever is later, the development regulations of any jurisdiction planning under this chapter must allow battery charging stations as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(4) Counties are authorized to adopt incentive programs to encourage the retrofitting of existing structures with the electrical outlets capable of charging electric vehicles. Incentives may include bonus height, site coverage, floor area ratio, and transferable development rights for use in urban growth areas.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(6) If federal funding for public investment in electric vehicles, electric vehicle infrastructure, or alternative fuel distribution infrastructure is not provided by February 1, 2010, subsection (1) of this section is null and void.

NEW SECTION. **Sec. 12.** A new section is added to chater 36.70A RCW to read as follows:

(1) By July 1, 2010, the development regulations of any jurisdiction:

(a) Adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520, with a population over twenty thousand, and located in a county with a population over one million five hundred thousand; or

(b) Adjacent to Interstate 5 and located in a county with a population greater than six hundred thousand; or

(c) Adjacent to Interstate 5 and located in a county with a state capitol within its borders;

planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(2) By July 1, 2011, or six months after the distribution required under section 18 of this act occurs, whichever is later,

the development regulations of any jurisdiction adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520 planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(3) By July 1, 2011, or six months after the distribution required under section 18 of this act occurs, whichever is later, the development regulations of any jurisdiction planning under this chapter must allow battery charging stations as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(4) Cities are authorized to adopt incentive programs to encourage the retrofitting of existing structures with the electrical outlets capable of charging electric vehicles. Incentives may include bonus height, site coverage, floor area ratio, and transferable development rights for use in urban growth areas.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(6) If federal funding for public investment in electric vehicles, electric vehicle infrastructure, or alternative fuel distribution infrastructure is not provided by February 1, 2010, subsection (1) of this section is null and void.

NEW SECTION. **Sec. 13.** A new section is added to chapter 35.63 RCW to read as follows:

(1) By July 1, 2010, the development regulations of any jurisdiction with a population over six hundred thousand or with a state capitol within its borders planning under this chapter must allow electric vehicle infrastructure as a use in all areas within one mile of Interstate 5, Interstate 90, Interstate 405, or state route number 520, except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(2) By July 1, 2011, or six months after the distribution required under section 18 of this act occurs, whichever is later, the development regulations of any jurisdiction adjacent to Interstate 5, Interstate 90, Interstate 405, or state route number 520 planning under this chapter must allow electric vehicle infrastructure as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(3) By July 1, 2011, or six months after the distribution required under section 18 of this act occurs, whichever is later, the development regulations of any jurisdiction planning under this chapter must allow battery charging stations as a use in all areas except those zoned for residential or resource use or critical areas. A jurisdiction may adopt and apply other development regulations that do not have the effect of precluding the siting of electric vehicle infrastructure in areas where that use is allowed.

(4) Counties are authorized to adopt incentive programs to encourage the retrofitting of existing structures with the electrical outlets capable of charging electric vehicles. Incentives may include bonus height, site coverage, floor area ratio, and transferable development rights for use in urban growth areas.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(c) "Electric vehicle infrastructure" means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

(d) "Rapid charging station" means an industrial grade electrical outlet that allows for faster recharging of electric vehicle batteries through higher power levels, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(6) If federal funding for public investment in electric vehicles, electric vehicle infrastructure, or alternative fuel distribution infrastructure is not provided by February 1, 2010, subsection (1) of this section is null and void.

NEW SECTION. **Sec. 14.** A new section is added to chapter 47.38 RCW to read as follows:

(1) As a necessary and desirable step to spur public and private investment in electric vehicle infrastructure in accordance with section 1 of this act, and to begin implementing the provisions of RCW 43.19.648, the legislature authorizes an alternative fuels corridor pilot project capable of supporting electric vehicle charging and battery exchange technologies.

(2) To the extent permitted under federal programs, rules, or law, the department may enter into partnership agreements with other public and private entities for the use of land and facilities along state routes and within interstate highway rights-of-way

for an alternative fuels corridor pilot project. At a minimum, the pilot project must:

(a) Limit renewable fuel and vehicle technology offerings to those with a forecasted demand over the next fifteen years and approved by the department;

(b) Ensure that a pilot project site does not compete with existing retail businesses in the same geographic area for the provision of the same refueling services, recharging technologies, or other retail commercial activities;

(c) Provide existing truck stop operators and retail truck refueling businesses with an absolute right of first refusal over the offering of refueling services to class six trucks with a maximum gross vehicle weight of twenty-six thousand pounds within the same geographic area identified for a possible pilot project site;

(d) Reach agreement with the department of services for the blind ensuring that any activities at host sites do not materially affect the revenues forecasted from their vending operations at each site;

(e) Regulate the internal rate of return from the partnership, including provisions to reduce or eliminate the level of state support once the partnership attains economic self-sufficiency;

(f) Be limited to not more than five locations on state-owned land within federal interstate rights-of-way or state highway rights-of-way in Washington; and

(g) Be limited in duration to a term of years reasonably necessary for the partnership to recover the cost of capital investments, plus the regulated internal rate of return.

(3) The department is not responsible for providing capital equipment nor operating refueling or recharging services. The department must provide periodic status reports on the pilot project to the office of financial management and the relevant standing committees of the legislature not less than every biennium.

(4) The provisions of this section are subject to the availability of existing funds. However, capital improvements under this section must be funded with federal or private funds.

NEW SECTION. **Sec. 15.** A new section is added to chapter 47.38 RCW to read as follows:

(1) By December 31, 2015, the state must, to the extent practicable, install electrical outlets capable of charging electric vehicles in each state-operated highway rest stop.

(2) By December 31, 2015, the state must provide the opportunity to lease space for the limited purpose of installing and operating a battery exchange station or a battery charging station in appropriate state-owned highway rest stops.

(3) The department of transportation's obligations under this section are subject to the availability of amounts appropriated for the specific purpose identified in this section, unless the department receives federal or private funds for the specific purpose identified in this section.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under section 16 of this act.

NEW SECTION. **Sec. 16.** A new section is added to chapter 19.27 RCW to read as follows:

The building code council shall adopt rules for electric vehicle infrastructure requirements. Rules adopted by the state building code council must consider applicable national and international standards and be consistent with rules adopted under section 17 of this act.

NEW SECTION. **Sec. 17.** A new section is added to chapter 19.28 RCW to read as follows:

The director shall adopt by rule standards for the installation of electric vehicle infrastructure, including all wires and equipment that convey electric current and any equipment to be operated by electric current, in, on, or about buildings or structures. The rules must be consistent with rules adopted under section 16 of this act.

NEW SECTION. **Sec. 18.** The department of community, trade, and economic development must distribute to local governments model ordinances, model development regulations, and guidance for local governments for siting and installing electric vehicle infrastructure, and in particular battery charging stations, and appropriate handling, recycling, and storage of electric vehicle batteries and equipment, when available. The model ordinances, model development regulations, and guidance must be developed by a federal or state agency, or nationally recognized organizations with specific expertise in land-use regulations or electric vehicle infrastructure."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 1481.

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

MOTION

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

On page 1, line 1 of the title, after "vehicles;" strike the remainder of the title and insert "amending RCW 43.19.648; adding a new section to chapter 82.29A RCW; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; adding a new section to chapter 79.13 RCW; adding a new section to chapter 43.21C RCW; adding new sections to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70 RCW; adding a new section to chapter 36.70A RCW; adding new sections to chapter 47.38 RCW; adding a new section to chapter 19.27 RCW; adding a new section to chapter 19.28 RCW; creating new sections; and providing expiration dates."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Second Substitute House Bill No. 1481 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1481 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1481 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 35; Nays, 14; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Swecker and Tom

Voting nay: Senators Becker, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Roach, Schoesler, Sheldon, Stevens and Zarelli

SECOND SUBSTITUTE HOUSE BILL NO. 1481 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 1579, by Representatives Appleton, Hasegawa and Nelson

Concerning a business and occupation tax exemption for nonprofit organizations that provide legal services to low-income individuals.

The measure was read the second time.

MOTION

Senator Prentice moved that the following committee amendment by the Committee on Ways & Means be adopted.

On page 1, line 8, after "individuals" insert "from whom no charge for services is collected"

Senator Prentice spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to House Bill No. 1579.

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

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 1579 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1579 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1579 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

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

Voting nay: Senators Becker, Benton, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

HOUSE BILL NO. 1579 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 1815, by Representatives Sullivan, Orcutt, Hinkle, Simpson, Blake, Kristiansen, Haigh, Ericks, Van De Wege, Hope, Newhouse, Roach, Armstrong, Morrell, Takko, Campbell, McCune and Rolfes

Concerning current use valuation under the property tax open space program.

The measure was read the second time.

MOTION

Senator Hatfield moved that the following committee striking amendment by the Committee on Agriculture & Rural Economic Development be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 84.34.020 and 2005 c 57 s 1 are each amended to read as follows:

As used in this chapter, unless a different meaning is required by the context:

(1) "Open space land" means (a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly, or (b) any land area, the preservation of which in its present use would (i) conserve and enhance natural or scenic resources, or (ii) protect streams or water supply, or (iii) promote conservation of soils, wetlands, beaches or tidal marshes, or (iv) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space, or (v) enhance recreation opportunities, or (vi) preserve historic sites, or (vii) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative body granting the open space classification, or (c) any land meeting the definition of farm and agricultural conservation land under subsection (8) of this section. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b)(iii) of this subsection for the purpose of promoting conservation of wetlands.

(2) "Farm and agricultural land" means:

(a) Any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres:

(i) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes;

(ii) Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or

(iii) Other similar commercial activities as may be established by rule;

(b)(i) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which

has produced a gross income from agricultural uses equivalent to, as of January 1, 1993:

(A) One hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(B) On or after January 1, 1993, two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;

(ii) For the purposes of (b)(i) of this subsection, "gross income from agricultural uses" includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs;

(c) Any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income as of January 1, 1993, of:

(i) One thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(ii) On or after January 1, 1993, fifteen hundred dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter.

Parcels of land described in (b)(i)(A) and (c)(i) of this subsection shall, upon any transfer of the property excluding a transfer to a surviving spouse, be subject to the limits of (b)(i)(B) and (c)(ii) of this subsection;

(d) Any parcel of land that is five acres or more but less than twenty acres devoted primarily to agricultural uses, which meet one of the following criteria:

(i) Has produced a gross income from agricultural uses equivalent to two hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this chapter;

(ii) Has standing crops with an expectation of harvest within seven years, except as provided in (d)(iii) of this subsection, and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year. For the purposes of this subsection (2)(d)(ii), "standing crop" means Christmas trees, vineyards, fruit trees, or other perennial crops that: (A) Are planted using agricultural methods normally used in the commercial production of that particular crop; and (B) typically do not produce harvestable quantities in the initial years after planting; or

(iii) Has a standing crop of short rotation hardwoods with an expectation of harvest within fifteen years and a demonstrable investment in the production of those crops equivalent to one hundred dollars or more per acre in the current or previous calendar year;

(e) Any lands including incidental uses as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use does not exceed twenty percent of the classified land and the land on which appurtenances necessary to the production, preparation, or sale of the agricultural products exist in conjunction with the lands producing such products. Agricultural lands shall also include any parcel of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands"; or

((~~(c)~~)) (f) The land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: The housing or residence is on or contiguous to the classified parcel; and the use of the housing or the residence is integral to the use of the classified land for agricultural purposes.

(3) "Timber land" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential homesite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than ten percent of the land may be used for such incidental uses. It also includes the land on which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

(4) "Current" or "currently" means as of the date on which property is to be listed and valued by the assessor.

(5) "Owner" means the party or parties having the fee interest in land, except that where land is subject to real estate contract "owner" shall mean the contract vendee.

(6) "Contiguous" means land adjoining and touching other property held by the same ownership. Land divided by a public road, but otherwise an integral part of a farming operation, shall be considered contiguous.

(7) "Granting authority" means the appropriate agency or official who acts on an application for classification of land pursuant to this chapter.

(8) "Farm and agricultural conservation land" means either:

(a) Land that was previously classified under subsection (2) of this section, that no longer meets the criteria of subsection (2) of this section, and that is reclassified under subsection (1) of this section; or

(b) Land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

Sec. 2. RCW 84.34.108 and 2007 c 54 s 25 are each amended to read as follows:

(1) When land has once been classified under this chapter, a notation of the classification shall be made each year upon the assessment and tax rolls and the land shall be valued pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a portion of the classification by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of the classification;

(b) Sale or transfer to an ownership, except a transfer that resulted from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the property for the same use as before, making all or a portion of the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of classification continuance, except transfer to an owner who is an heir or devisee of a deceased owner shall not, by itself, result in removal of classification. The notice of continuance shall be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes calculated pursuant to

subsection (4) of this section shall become due and payable by the seller or transferor at time of sale. The auditor shall not accept an instrument of conveyance regarding classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (4) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of the land no longer meets the criteria for classification under this chapter. The criteria for classification pursuant to this chapter continue to apply after classification has been granted.

The granting authority, upon request of an assessor, shall provide reasonable assistance to the assessor in making a determination whether the land continues to meet the qualifications of RCW 84.34.020 (1) or (3). The assistance shall be provided within thirty days of receipt of the request.

(2) Land may not be removed from classification because of:

(a) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or

(b) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.

(3) Within thirty days after ((~~such~~)) the removal of all or a portion of the land from current use classification under subsection (1) of this section, the assessor shall notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038. The removal notice must explain the steps needed to appeal the removal decision, including when a notice of appeal must be filed, where the forms may be obtained, and how to contact the county board of equalization.

(4) Unless the removal is reversed on appeal, the assessor shall revalue the affected land with reference to its true and fair value on January 1st of the year of removal from classification. Both the assessed valuation before and after the removal of classification shall be listed and taxes shall be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (6) of this section, an additional tax, applicable interest, and penalty shall be imposed which shall be due and payable to the treasurer thirty days after the owner is notified of the amount of the additional tax. As soon as possible, the assessor shall compute the amount of additional tax, applicable interest, and penalty and the treasurer shall mail notice to the owner of the amount thereof and the date on which payment is due. The amount of the additional tax, applicable interest, and penalty shall be determined as follows:

(a) The amount of additional tax shall be equal to the difference between the property tax paid as "open space land," "farm and agricultural land," or "timber land" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified;

(b) The amount of applicable interest shall be equal to the interest upon the amounts of the additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the land had been assessed at a value without regard to this chapter;

(c) The amount of the penalty shall be as provided in RCW 84.34.080. The penalty shall not be imposed if the removal satisfies the conditions of RCW 84.34.070.

(5) Additional tax, applicable interest, and penalty, shall become a lien on the land which shall attach at the time the land is removed from classification under this chapter and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which the land may become charged or liable. This lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any additional tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(6) The additional tax, applicable interest, and penalty specified in subsection (4) of this section shall not be imposed if the removal of classification pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other land located within the state of Washington;

(b)(i) A taking through the exercise of the power of eminent domain, or (ii) sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power, said entity having manifested its intent in writing or by other official action;

(c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of the property;

(d) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of the land;

(e) Transfer of land to a church when the land would qualify for exemption pursuant to RCW 84.36.020;

(f) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections. At such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (4) of this section shall be imposed;

(g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(((~~(c)~~))) (f);

(h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;

(i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(j) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040; or

(k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under chapter 84.33 RCW, or classified under this chapter continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (6)(k)."

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

MOTION

On motion of Senator Marr, Senator Tom was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Agriculture & Rural Economic Development to Engrossed House Bill No. 1815.

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

MOTION

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

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "and amending RCW 84.34.020 and 84.34.108."

MOTION

On motion of Senator Hatfield, the rules were suspended, Engrossed House Bill No. 1815 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hatfield spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1815 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1815 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator Tom

ENGROSSED HOUSE BILL NO. 1815 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1972, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Dunshee, Blake and Williams)

Regarding access to information for outdoor recreation and wildlife viewing opportunities.

The measure was read the second time.

MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 1972 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of passage of the bill.

Senator Haugen spoke against passage of the bill.

MOTION

On motion of Senator Rockefeller, Senator Fairley was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1972.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1972 and the bill passed the Senate by the following vote: Yeas, 22; Nays, 25; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Franklin, Fraser, Hargrove, Hatfield, Jacobsen, Jarrett, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Morton, Murray, Oemig, Prentice, Ranker, Regala and Shin

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Kauffman, Kilmer, King, Marr, McCaslin, Parlette, Pflug, Pridemore, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Fairley and Tom

SUBSTITUTE HOUSE BILL NO. 1972, having failed to receive the constitutional majority, was declared lost.

SECOND READING

ENGROSSED HOUSE BILL NO. 2242, by Representatives Kenney, Probst, Maxwell, Hunt, Liias, Ormsby, Kelley, Sullivan, Hasegawa, Quall, White and Chase

Creating a department of commerce.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

Sec. 1. RCW 43.330.007 and 1993 c 280 s 2 are each amended to read as follows:

The purpose of this chapter is to establish the broad outline of the structure of the department of ((~~community, trade, and economic development~~)) commerce, leaving specific details of its internal organization and management to those charged with its administration. This chapter identifies the broad functions and responsibilities of the ((~~new~~)) department and is intended to provide flexibility to the director to reorganize these functions and to make recommendations for changes ((~~through the implementation plan required in section 8, chapter 280, Laws of 1993~~)).

Sec. 2. RCW 43.330.010 and 2007 c 322 s 2 are each amended to read as follows:

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

(1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

(2) "Department" means the department of ((~~community,~~

~~trade, and economic development~~)) commerce.

(3) "Director" means the director of the department of ((~~community, trade, and economic development~~)) commerce.

(4) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business in this state under state or federal law.

(5) "Microenterprise development organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or other locally operated nonprofit entity that provides services to low-income entrepreneurs.

(6) "Statewide microenterprise association" means a nonprofit entity with microenterprise development organizations as members that serves as an intermediary between the department of ((~~community, trade, and economic development~~)) commerce and local microenterprise development organizations.

Sec. 3. RCW 43.330.020 and 1993 c 280 s 4 are each amended to read as follows:

A department of ((~~community, trade, and economic development~~)) commerce is created. The department shall be vested with all powers and duties established or transferred to it under this chapter and such other powers and duties as may be authorized by law. Unless otherwise specifically provided ((~~in chapter 280, Laws of 1993~~)), the existing responsibilities and functions of the agency programs will continue to be administered in accordance with their implementing legislation.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The director shall, in collaboration with the office of the governor, the office of financial management, the Washington economic development commission, the chairs and ranking minority members of the community and economic development and trade committee of the house of representatives and the economic development, trade and innovation committee of the senate, and the chairs and ranking members, or their designees, of the ways and means committees of the house of representatives and the senate and the house of representatives capital budget committee, develop a report with analysis and recommendations on statutory changes that would ensure that the department's efforts are efficient, effective, and:

(a) Are organized around a concise core mission and aligned with the state's comprehensive plan for economic development;

(b) Are capable of providing focused and flexible responses to changing economic conditions;

(c) Generate greater local capacity to respond to local opportunities and needs;

(d) Face no administrative barriers to leveraging state resources or procuring private and federal resources;

(e) Maximize results through partnerships and the use of intermediaries; and

(f) Provide transparency and increased accountability to the public, the governor, and the legislature.

(2) The report shall include recommendations for creating or consolidating programs deemed important to meeting the department's core mission and recommendations for terminating or transferring specific programs if they are not consistent with the department's core mission.

(3) In developing the recommendations, the director shall solicit the input of businesses, employees, economic development practitioners, local governments, planning professionals, community and housing organizations, and other key economic and community development stakeholders.

(4) The recommendations must be delivered to the governor and the appropriate legislative committees by November 1, 2009.

Sec. 5. RCW 43.330.092 and 2005 c 136 s 15 are each amended to read as follows:

The film and video promotion account is created in the state treasury. All revenue received for film and video promotion purposes under RCW 43.330.090(((~~(4)~~))) (2)(b) and all receipts from RCW 36.102.060(14) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of ((~~community, trade, and economic development~~)) commerce only for the purposes of promotion of the film and video production industry in the state of Washington.

Sec. 6. RCW 43.330.094 and 2007 c 228 s 202 are each amended to read as follows:

The tourism development and promotion account is created in the state treasury. All receipts from RCW 36.102.060(10) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used by the department of ((~~community, trade, and economic development~~)) commerce only for the purposes of expanding and promoting the tourism industry in the state of Washington.

Sec. 7. RCW 43.330.125 and 1995 c 347 s 430 are each amended to read as follows:

The department of ((~~community, trade, and economic development~~)) commerce shall provide training and technical assistance to counties and cities to assist them in fulfilling the requirements of chapter 36.70B RCW.

Sec. 8. RCW 43.330.135 and 1995 c 13 s 1 are each amended to read as follows:

(1) The department of ((~~community, trade, and economic development~~)) commerce shall distribute such funds as are appropriated for the statewide technical support, development, and enhancement of court-appointed special advocate programs.

(2) In order to receive money under subsection (1) of this section, an organization providing statewide technical support, development, and enhancement of court-appointed special advocate programs must meet all of the following requirements:

(a) The organization must provide statewide support, development, and enhancement of court-appointed special advocate programs that offer guardian ad litem services as provided in RCW 26.12.175, 26.44.053, and 13.34.100;

(b) All guardians ad litem working under court-appointed special advocate programs supported, developed, or enhanced by the organization must be volunteers and may not receive payment for services rendered pursuant to the program. The organization may include paid positions that are exclusively administrative in nature, in keeping with the scope and purpose of this section; and

(c) The organization providing statewide technical support, development, and enhancement of court-appointed special advocate programs must be a public benefit nonprofit corporation as defined in RCW 24.03.490.

(3) If more than one organization is eligible to receive money under this section, the department shall develop criteria for allocation of appropriated money among the eligible organizations.

Sec. 9. RCW 43.330.167 and 2004 c 276 s 718 are each amended to read as follows:

(1)(a) There is created in the custody of the state treasurer an account to be known as the homeless families services fund. Revenues to the fund consist of a one-time appropriation by the legislature, private contributions, and all other sources deposited in the fund.

(b) Expenditures from the fund may only be used for the

purposes of the program established in this section, including administrative expenses. Only the director of the department of ((~~community, trade, and economic development~~)) commerce, or the director's designee, may authorize expenditures.

(c) Expenditures from the fund are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. However, money used for program administration by the department is subject to the allotment and budgetary controls of chapter 43.88 RCW, and an appropriation is required for these expenditures.

(2) The department may expend moneys from the fund to provide state matching funds for housing-based supportive services for homeless families over a period of at least ten years.

(3) Activities eligible for funding through the fund include, but are not limited to, the following:

(a) Case management;

(b) Counseling;

(c) Referrals to employment support and job training services and direct employment support and job training services;

(d) Domestic violence services and programs;

(e) Mental health treatment, services, and programs;

(f) Substance abuse treatment, services, and programs;

(g) Parenting skills education and training;

(h) Transportation assistance;

(i) Child care; and

(j) Other supportive services identified by the department to be an important link for housing stability.

(4) Organizations that may receive funds from the fund include local housing authorities, nonprofit community or neighborhood-based organizations, public development authorities, federally recognized Indian tribes in the state, and regional or statewide nonprofit housing assistance organizations.

Sec. 10. RCW 43.330.170 and 2002 c 294 s 4 are each amended to read as follows:

The office of community development of the department of ((~~community, trade, and economic development~~)) commerce is directed to conduct a statewide housing market analysis by region. The purpose of the analysis is to identify areas of greatest need for the appropriate investment of state affordable housing funds, using vacancy data and other appropriate measures of need for low-income housing. The analysis shall include the number and types of projects that counties have developed using the funds collected under chapter 294, Laws of 2002. The analysis shall be completed by September 2003, and updated every two years thereafter.

Sec. 11. RCW 43.330.210 and 2000 c 120 s 5 are each amended to read as follows:

The developmental disabilities endowment governing board is established to design and administer the developmental disabilities endowment. To the extent funds are appropriated for this purpose, the director of the department of ((~~community, trade, and economic development~~)) commerce shall provide staff and administrative support to the governing board.

(1) The governing board shall consist of seven members as follows:

(a) Three of the members, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as finance, actuarial science, management, business, or public policy.

(b) Three members of the board, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as business, developmental disabilities service design, management, or public policy, and shall be family members of persons with developmental disabilities.

(c) The seventh member of the board, who shall serve as chair of the board, shall be appointed by the remaining six members of the board.

(2) Members of the board shall serve terms of four years and may be appointed for successive terms of four years at the discretion of the appointing authority. However, the governor may stagger the terms of the initial six members of the board so that approximately one-fourth of the members' terms expire each year.

(3) Members of the board shall be compensated for their service under RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The board shall meet periodically as specified by the call of the chair, or a majority of the board.

(5) Members of the governing board and the state investment board shall not be considered an insurer of the funds or assets of the endowment trust fund or the individual trust accounts. Neither of these two boards or their members shall be liable for the action or ((~~inactions [inaction]~~)) inaction of the other.

(6) Members of the governing board and the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The department and the state investment board, respectively, may purchase liability insurance for members.

Sec. 12. RCW 43.330.240 and 2000 c 120 s 9 are each amended to read as follows:

The department of ((~~community, trade, and economic development~~)) commerce shall adopt rules for the implementation of policies established by the governing board in RCW 43.330.200 through 43.330.230. Such rules will be consistent with those statutes and chapter 34.05 RCW.

Sec. 13. RCW 43.330.250 and 2008 c 329 s 914 are each amended to read as follows:

(1) The economic development strategic reserve account is created in the state treasury to be used only for the purposes of this section.

(2) Only the governor, with the recommendation of the director of the department of ((~~community, trade, and economic development~~)) commerce and the economic development commission, may authorize expenditures from the account.

(3) Expenditures from the account shall be made in an amount sufficient to fund a minimum of one staff position for the economic development commission and to cover any other operational costs of the commission.

(4) During the 2007-2009 fiscal biennium, moneys in the account may also be transferred into the state general fund.

(5) Expenditures from the account may be made to prevent closure of a business or facility, to prevent relocation of a business or facility in the state to a location outside the state, or to recruit a business or facility to the state. Expenditures may be authorized for:

(a) Workforce development;

(b) Public infrastructure needed to support or sustain the operations of the business or facility; and

(c) Other lawfully provided assistance, including, but not limited to, technical assistance, environmental analysis, relocation assistance, and planning assistance. Funding may be provided for such assistance only when it is in the public interest and may only be provided under a contractual arrangement ensuring that the state will receive appropriate consideration, such as an assurance of job creation or retention.

(6) The funds shall not be expended from the account unless:

(a) The circumstances are such that time does not permit the director of the department of ((~~community, trade, and economic development~~)) commerce or the business or facility to secure funding from other state sources;

(b) The business or facility produces or will produce significant long-term economic benefits to the state, a region of the state, or a particular community in the state;

(c) The business or facility does not require continuing state support;

(d) The expenditure will result in new jobs, job retention, or higher incomes for citizens of the state;

(e) The expenditure will not supplant private investment; and

(f) The expenditure is accompanied by private investment.

(7) No more than three million dollars per year may be expended from the account for the purpose of assisting an individual business or facility pursuant to the authority specified in this section.

(8) If the account balance in the strategic reserve account exceeds fifteen million dollars at any time, the amount in excess of fifteen million dollars shall be transferred to the education construction account.

Sec. 14. RCW 43.330.280 and 2007 c 227 s 2 are each amended to read as follows:

(1) The Washington state economic development commission shall, with the advice of an innovation partnership advisory group selected by the commission, have oversight responsibility for the implementation of the state's efforts to further innovation partnerships throughout the state. The commission shall:

(a) Provide information and advice to the department of ((~~community, trade, and economic development~~)) commerce to assist in the implementation of the innovation partnership zone program, including criteria to be used in the selection of grant applicants for funding;

(b) Document clusters of companies throughout the state that have comparative competitive advantage or the potential for comparative competitive advantage, using the process and criteria for identifying strategic clusters developed by the working group specified in subsection (2) of this section;

(c) Conduct an innovation opportunity analysis to identify (i) the strongest current intellectual assets and research teams in the state focused on emerging technologies and their commercialization, and (ii) faculty and researchers that could increase their focus on commercialization of technology if provided the appropriate technical assistance and resources;

(d) Based on its findings and analysis, and in conjunction with the higher education coordinating board and research institutions:

(i) Develop a plan to build on existing, and develop new, intellectual assets and innovation research teams in the state in research areas where there is a high potential to commercialize technologies. The commission shall present the plan to the governor and legislature by December 31, 2007. The higher education coordinating board shall be responsible for implementing the plan in conjunction with the publicly funded research institutions in the state. The plan shall address the following elements and such other elements as the commission deems important:

(A) Specific mechanisms to support, enhance, or develop innovation research teams and strengthen their research and commercialization capacity in areas identified as useful to strategic clusters and innovative firms in the state;

(B) Identification of the funding necessary for laboratory infrastructure needed to house innovation research teams;

(C) Specification of the most promising research areas meriting enhanced resources and recruitment of significant entrepreneurial researchers to join or lead innovation research teams;

(D) The most productive approaches to take in the recruitment, in the identified promising research areas, of a minimum of ten significant entrepreneurial researchers over the next ten years to join or lead innovation research teams;

(E) Steps to take in solicitation of private sector support for the recruitment of entrepreneurial researchers and the commercialization activity of innovation research teams; and

(F) Mechanisms for ensuring the location of innovation research teams in innovation partnership zones;

(ii) Provide direction for the development of comprehensive entrepreneurial assistance programs at research institutions. The programs may involve multidisciplinary students, faculty, entrepreneurial researchers, entrepreneurs, and investors in building business models and evolving business plans around innovative ideas. The programs may provide technical assistance and the support of an entrepreneur-in-residence to innovation research teams and offer entrepreneurial training to faculty, researchers, undergraduates, and graduate students. Curriculum leading to a certificate in entrepreneurship may also be offered;

(e) Develop performance measures to be used in evaluating the performance of innovation research teams, the implementation of the plan and programs under (d)(i) and (ii) of this subsection, and the performance of innovation partnership zone grant recipients, including but not limited to private investment measures, business initiation measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation. The performance measures developed shall be consistent with the economic development commission's comprehensive plan for economic development and its standards and metrics for program evaluation. The commission shall report to the legislature and the governor by December 31, 2008, on the measures developed; and

(f) Using the performance measures developed, perform a biennial assessment and report, the first of which shall be due December 31, 2012, on:

(i) Commercialization of technologies developed at state universities, found at other research institutions in the state, and facilitated with public assistance at existing companies;

(ii) Outcomes of the funding of innovation research teams and recruitment of significant entrepreneurial researchers;

(iii) Comparison with other states of Washington's outcomes from the innovation research teams and efforts to recruit significant entrepreneurial researchers; and

(iv) Outcomes of the grants for innovation partnership zones.

The report shall include recommendations for modifications of chapter 227, Laws of 2007 and of state commercialization efforts that would enhance the state's economic competitiveness.

(2) The economic development commission and the workforce training and education coordinating board shall jointly convene a working group to:

(a) Specify the process and criteria for identification of substate geographic concentrations of firms or employment in an industry and the industry's customers, suppliers, supporting businesses, and institutions, which process will include the use of labor market information from the employment security department and local labor markets; and

(b) Establish criteria for identifying strategic clusters which

are important to economic prosperity in the state, considering cluster size, growth rate, and wage levels among other factors.

Sec. 15. RCW 43.330.290 and 2007 c 322 s 3 are each amended to read as follows:

The microenterprise development program is established in the department of ((~~community, trade, and economic development~~)) commerce. In implementing the program, the department:

(1) Shall provide organizational support to a statewide microenterprise association and shall contract with the association for the delivery of services and distribution of grants;

(a) The association shall serve as the department's agent in carrying out the purpose and service delivery requirements of this section;

(b) The association's contract with the department shall specify that in administering the funds provided for under subsection (3) of this section, the association may use no greater than ten percent of the funds to cover administrative expenses;

(2) Shall provide funds for capacity building for the statewide microenterprise association and microenterprise development organizations throughout the state;

(3) Shall provide grants to microenterprise development organizations for the delivery of training and technical assistance services;

(4) Shall identify and facilitate the availability of state, federal, and private sources of funds which may enhance microenterprise development in the state;

(5) Shall develop with the statewide microenterprise association criteria for the distribution of grants to microenterprise development organizations. Such criteria may include:

(a) The geographic representation of all regions of the state, including both urban and rural communities;

(b) The ability of the microenterprise development organization to provide business development services in low-income communities;

(c) The scope of services offered by a microenterprise development organization and their efficiency in delivery of such services;

(d) The ability of the microenterprise development organization to monitor the progress of its customers and identify technical and financial assistance needs;

(e) The ability of the microenterprise development organization to work with other organizations, public entities, and financial institutions to meet the technical and financial assistance needs of its customers;

(f) The sufficiency of operating funds for the microenterprise development organization; and

(g) Such other criteria as agreed by the department and the association;

(6) Shall require the statewide microenterprise association and any microenterprise development organization receiving funds through the microenterprise development program to raise and contribute to the effort funded by the microenterprise development program an amount equal to twenty-five percent of the microenterprise development program funds received. Such matching funds may come from private foundations, federal or local sources, financial institutions, or any other source other than funds appropriated from the legislature;

(7) Shall require under its contract with the statewide microenterprise association an annual accounting of program outcomes, including job creation, access to capital, leveraging of nonstate funds, and other outcome measures specified by the department. By January 1, 2012, the joint legislative audit and review committee shall use these outcome data and other relevant information to evaluate the program's effectiveness; and

(8) May adopt rules as necessary to implement this section.

Sec. 16. RCW 43.330.300 and 2008 c 290 s 1 are each amended to read as follows:

(1) The financial fraud and identity theft crimes investigation and prosecution program is created in the department of ((~~community, trade, and economic development~~)) commerce. The department shall:

(a) Appoint members of the financial fraud task forces created in subsection (2) of this section;

(b) Administer the account created in subsection (3) of this section; and

(c) By December 31st of each year submit a report to the appropriate committees of the legislature and the governor regarding the progress of the program and task forces. The report must include recommendations on changes to the program, including expansion.

(2)(a) The department shall establish two regional financial fraud and identity theft crime task forces that include a central Puget Sound task force that includes King and Pierce counties, and a Spokane county task force. Each task force must be comprised of local law enforcement, county prosecutors, representatives of the office of the attorney general, financial institutions, and other state and local law enforcement.

(b) The department shall appoint: (i) Representatives of local law enforcement from a list provided by the Washington association of sheriffs and police chiefs; (ii) representatives of county prosecutors from a list provided by the Washington association of prosecuting attorneys; and (iii) representatives of financial institutions.

(c) Each task force shall:

(i) Hold regular meetings to discuss emerging trends and threats of local financial fraud and identity theft crimes;

(ii) Set priorities for the activities for the task force;

(iii) Apply to the department for funding to (A) hire prosecutors and/or law enforcement personnel dedicated to investigating and prosecuting financial fraud and identity theft crimes; and (B) acquire other needed resources to conduct the work of the task force;

(iv) Establish outcome-based performance measures; and

(v) Twice annually report to the department regarding the activities and performance of the task force.

(3) The financial fraud and identity theft crimes investigation and prosecution account is created in the state treasury. Moneys in the account may be spent only after appropriation. Revenue to the account may include appropriations, revenues generated by the surcharge imposed in RCW 62A.9A-525, federal funds, and any other gifts or grants. Expenditures from the account may be used only to support the activities of the financial fraud and identity theft crime investigation and prosecution task forces and the program administrative expenses of the department, which may not exceed ten percent of the amount appropriated.

(4) For purposes of this section, "financial fraud and identity theft crimes" includes those that involve: Check fraud, chronic unlawful issuance of bank checks, embezzlement, credit/debit card fraud, identity theft, forgery, counterfeit instruments such as checks or documents, organized counterfeit check rings, and organized identification theft rings.

Sec. 17. RCW 43.330.900 and 1993 c 280 s 79 are each amended to read as follows:

((~~(1)~~)) All references to the director or department of community, trade, and economic development in the Revised Code of Washington shall be construed to mean the director of

((~~community, trade, and economic development~~)) commerce or the department of ((~~community, trade, and economic development~~)) commerce.

(((~~(2) All references to the director or department of trade and economic development in the Revised Code of Washington shall be construed to mean the director of community, trade, and economic development or the department of community, trade, and economic development.~~)))

Sec. 18. RCW 19.260.020 and 2006 c 194 s 1 are each amended to read as follows:

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

(1) "Automatic commercial ice cube machine" means a factory-made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice-making section operating as an integrated unit with means for making and harvesting ice cubes. It may also include integrated components for storing or dispensing ice, or both.

(2) "Ballast" means a device used with an electric discharge lamp to obtain necessary circuit conditions, such as voltage, current, and waveform, for starting and operating the lamp.

(3) "Commercial clothes washer" means a soft mount horizontal or vertical-axis clothes washer that: (a) Has a clothes container compartment no greater than 3.5 cubic feet in the case of a horizontal-axis product or no greater than 4.0 cubic feet in the case of a vertical-axis product; and (b) is designed for use by more than one household, such as in multifamily housing, apartments, or coin laundries.

(4) "Commercial prerinse spray valve" means a handheld device designed and marketed for use with commercial dishwashing and warewashing equipment and that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue prior to their cleaning.

(5)(a) "Commercial refrigerators and freezers" means refrigerators, freezers, or refrigerator-freezers designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages, or ice at specified temperatures that: (i) Incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet; and (ii) may be configured with either solid or transparent doors as a reach-in cabinet, pass-through cabinet, roll-in cabinet, or roll-through cabinet.

(b) "Commercial refrigerators and freezers" does not include: (i) Products with 85 cubic feet or more of internal volume; (ii) walk-in refrigerators or freezers; (iii) consumer products that are federally regulated pursuant to 42 U.S.C. Sec. 6291 et seq.; (iv) products without doors; or (v) freezers specifically designed for ice cream.

(6) "Compensation" means money or any other valuable thing, regardless of form, received or to be received by a person for services rendered.

(7) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(8) "High-intensity discharge lamp" means a lamp in which light is produced by the passage of an electric current through a vapor or gas, and in which the light-producing arc is stabilized by bulb wall temperature and the arc tube has a bulb wall loading in excess of three watts per square centimeter.

(9) "Metal halide lamp" means a high-intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.

(10) "Metal halide lamp fixture" means a light fixture designed to be operated with a metal halide lamp and a ballast for a metal halide lamp.

(11) "Pass-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on both the front and rear of the unit.

(12) "Probe-start metal halide ballast" means a ballast used to operate metal halide lamps which does not contain an igniter and which instead starts lamps by using a third starting electrode "probe" in the arc tube.

(13) "Reach-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors or lids, but does not include roll-in or roll-through cabinets or pass-through cabinets.

(14)(a) "Roll-in cabinet" means a commercial refrigerator or freezer with hinged or sliding doors that allow wheeled racks of product to be rolled into the unit.

(b) "Roll-through cabinet" means a commercial refrigerator or freezer with hinged or sliding doors on two sides of the cabinet that allow wheeled racks of product to be rolled through the unit.

(15)(a) "Single-voltage external AC to DC power supply" means a device that: (i) Is designed to convert line voltage alternating current input into lower voltage direct current output; (ii) is able to convert to only one DC output voltage at a time; (iii) is sold with, or intended to be used with, a separate end-use product that constitutes the primary power load; (iv) is contained within a separate physical enclosure from the end-use product; (v) is connected to the end-use product via a removable or hard-wired male/female electrical connection, cable, cord, or other wiring; and (vi) has a nameplate output power less than or equal to 250 watts.

(b) "Single-voltage external AC to DC power supply" does not include: (i) Products with batteries or battery packs that physically attach directly to the power supply unit; (ii) products with a battery chemistry or type selector switch and indicator light; or (iii) products with a battery chemistry or type selector switch and a state of charge meter.

(16) "State-regulated incandescent reflector lamp" means a lamp that is not colored or designed for rough or vibration service applications, that has an inner reflective coating on the outer bulb to direct the light, an E26 medium screw base, and a rated voltage or voltage range that lies at least partially within 115 to 130 volts, and that falls into one of the following categories:

(a) A bulged reflector or elliptical reflector bulb shape and which has a diameter which equals or exceeds 2.25 inches;

(b) A reflector, parabolic aluminized reflector, or similar bulb shape and which has a diameter of 2.25 to 2.75 inches.

(17) "Transformer" means a device consisting of two or more coils of insulated wire and that is designed to transfer alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.

(18)(a) "Unit heater" means a self-contained, vented fan-type commercial space heater that uses natural gas or propane, and that is designed to be installed without ducts within a heated space.

(b) "Unit heater" does not include any products covered by federal standards established pursuant to 42 U.S.C. Sec. 6291 et seq. or any product that is a direct vent, forced flue heater with a sealed combustion burner.

Sec. 19. RCW 19.280.020 and 2006 c 195 s 2 are each amended to read as follows:

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

(1) "Commission" means the utilities and transportation commission.

(2) "Conservation and efficiency resources" means any reduction in electric power consumption that results from

increases in the efficiency of energy use, production, transmission, or distribution.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(5) "Electric utility" means a consumer-owned or investor-owned utility.

(6) "Full requirements customer" means an electric utility that relies on the Bonneville power administration for all power needed to supply its total load requirement other than that served by nondispatchable generating resources totaling no more than six megawatts or renewable resources.

(7) "Governing body" means the elected board of directors, city council, commissioners, or board of any consumer-owned utility.

(8) "High efficiency cogeneration" means the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions, the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output.

(9) "Integrated resource plan" means an analysis describing the mix of generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers and that complies with the requirements specified in RCW 19.280.030(1).

(10) "Investor-owned utility" means a corporation owned by investors that meets the definition in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(11) "Lowest reasonable cost" means the lowest cost mix of generating resources and conservation and efficiency resources determined through a detailed and consistent analysis of a wide range of commercially available resources. At a minimum, this analysis must consider resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, the risks imposed on the utility and its ratepayers, public policies regarding resource preference adopted by Washington state or the federal government, and the cost of risks associated with environmental effects including emissions of carbon dioxide.

(12) "Plan" means either an "integrated resource plan" or a "resource plan."

(13) "Renewable resources" means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) biomass energy utilizing animal waste, solid organic fuels from wood, forest, or field residues or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (g) byproducts of pulping or wood manufacturing processes, including but not limited to bark, wood chips, sawdust, and lignin in spent pulping liquors; (h) ocean thermal, wave, or tidal power; or (i) gas from sewage treatment facilities.

(14) "Resource plan" means an assessment that estimates electricity loads and resources over a defined period of time and complies with the requirements in RCW 19.280.030(2).

Sec. 20. RCW 19.285.030 and 2007 c 1 s 3 (Initiative Measure No. 937) are each amended to read as follows:

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

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for qualifying utilities under its jurisdiction that are not investor-owned utilities; or (b) an independent auditor selected by a qualifying utility that is not under the jurisdiction of the state auditor and is not an investor-owned utility.

(3) "Commission" means the Washington state utilities and transportation commission.

(4) "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.

(5) "Cost-effective" has the same meaning as defined in RCW 80.52.030.

(6) "Council" means the Washington state apprenticeship and training council within the department of labor and industries.

(7) "Customer" means a person or entity that purchases electricity for ultimate consumption and not for resale.

(8) "Department" means the department of ((~~community, trade, and economic development~~)) commerce or its successor.

(9) "Distributed generation" means an eligible renewable resource where the generation facility or any integrated cluster of such facilities has a generating capacity of not more than five megawatts.

(10) "Eligible renewable resource" means:

(a) Electricity from a generation facility powered by a renewable resource other than fresh water that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services; or

(b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or impoundments.

(11) "Investor-owned utility" has the same meaning as defined in RCW 19.29A.010.

(12) "Load" means the amount of kilowatt-hours of electricity delivered in the most recently completed year by a qualifying utility to its Washington retail customers.

(13) "Nonpower attributes" means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource, including but not limited to the facility's fuel type, geographic location, vintage, qualification as an eligible renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases.

(14) "Pacific Northwest" has the same meaning as defined for the Bonneville power administration in section 3 of the Pacific Northwest electric power planning and conservation act (94 Stat. 2698; 16 U.S.C. Sec. 839a).

(15) "Public facility" has the same meaning as defined in RCW 39.35C.010.

(16) "Qualifying utility" means an electric utility, as the term

"electric utility" is defined in RCW 19.29A.010, that serves more than twenty-five thousand customers in the state of Washington. The number of customers served may be based on data reported by a utility in form 861, "annual electric utility report," filed with the energy information administration, United States department of energy.

(17) "Renewable energy credit" means a tradable certificate of proof of at least one megawatt-hour of an eligible renewable resource where the generation facility is not powered by fresh water, the certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity, and the certificate is verified by a renewable energy credit tracking system selected by the department.

(18) "Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; and (i) biomass energy based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include (i) wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) black liquor byproduct from paper production; (iii) wood from old growth forests; or (iv) municipal solid waste.

(19) "Rule" means rules adopted by an agency or other entity of Washington state government to carry out the intent and purposes of this chapter.

(20) "Year" means the twelve-month period commencing January 1st and ending December 31st.

Sec. 21. RCW 35.105.010 and 2008 c 299 s 2 are each amended to read as follows:

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

(1) "Community and urban forest assessment" means an analysis of the community and urban forest inventory to: Establish the scope and scale of forest-related benefits and services; determine the economic valuation of such benefits, highlight trends, and issues of concern; identify high priority areas to be addressed; outline strategies for addressing the critical issues and urban landscapes; and identify opportunities for retaining trees, expanding forest canopy, and planting additional trees to sustain Washington's urban and community forests.

(2) "Community and urban forest inventory" means a management tool designed to gauge the condition, management status, health, and diversity of a community and urban forest. An inventory may evaluate individual trees or groups of trees or canopy cover within community and urban forests, and will be periodically updated by the department of natural resources.

(3) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(4) "Evergreen community ordinances" means ordinances adopted by the legislative body of a city, town, or county that relate to urban forests and are consistent with this chapter.

(5) "Evergreen community" means a city, town, or county designated as such under RCW 35.105.030.

(6) "Management plan" means an evergreen community urban forest management plan developed pursuant to this chapter.

(7) "Public facilities" has the same meaning as defined in RCW 36.70A.030.

(8) "Public forest" means urban forests owned by the state, city, town, county, or other public entity within or adjacent to the urban growth areas.

(9) "Reforestation" means establishing and maintaining trees and urban forest canopy in plantable spaces such as street rights-of-way, transportation corridors, interchanges and highways, riparian areas, unstable slopes, shorelines, public lands, and property of willing private landowners.

(10) "Tree canopy" means the layer of leaves, branches, and stems of trees that cover the ground when viewed from above and that can be measured as a percentage of a land area shaded by trees.

(11) "Urban forest" has the same definition as provided for the term "community and urban forest" in RCW 76.15.010.

Sec. 22. RCW 36.70A.030 and 2005 c 423 s 2 are each amended to read as follows:

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

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.

(6) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(7) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

(8) "Forest land" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forest land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to

conversion of forest land to other uses.

(9) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) "Minerals" include gravel, sand, and valuable metallic substances.

(12) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) "Recreational land" means land so designated under RCW 36.70A.1701 and that, immediately prior to this designation, was designated as agricultural land of long-term commercial significance under RCW 36.70A.170. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

(15) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

(16) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

(17) "Rural governmental services" or "rural services" include those public services and public facilities historically and typically delivered at an intensity usually found in rural areas, and may include domestic water systems, fire and police protection services, transportation and public transit services, and other public utilities associated with rural development and normally not associated with urban areas. Rural services do not include storm or sanitary sewers, except as otherwise authorized by RCW 36.70A.110(4).

(18) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(19) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(20) "Urban governmental services" or "urban services" include those public services and public facilities at an intensity historically and typically provided in cities, specifically including storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

(21) "Wetland" or "wetlands" means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

Sec. 23. RCW 39.86.110 and 1995 c 399 s 57 are each amended to read as follows:

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

(1) "Agency" means the department of ((~~community, trade, and economic development~~)) commerce.

(2) "Board" means the community economic revitalization board established under chapter 43.160 RCW.

(3) "Bonds" means bonds, notes, or other obligations of an issuer.

(4) "Bond use category" means any of the following categories of bonds which are subject to the state ceiling: (a) Housing, (b) student loans, (c) small issue, (d) exempt facility, (e) redevelopment, (f) public utility; and (g) remainder.

(5) "Carryforward" is an allocation or reallocation of the state ceiling which is carried from one calendar year to a later year, in accordance with the code.

(6) "Code" means the federal internal revenue code of 1986 as it exists on May 8, 1987. It also means the code as amended after May 8, 1987, but only if the amendments are approved by the agency under RCW 39.86.180.

(7) "Director" means the director of the agency or the director's designee.

(8) "Exempt facility" means the bond use category which includes all bonds which are exempt facility bonds as described in the code, except those for qualified residential rental projects.

(9) "Firm and convincing evidence" means documentation

that satisfies the director that the issuer is committed to the prompt financing of, and will issue tax exempt bonds for, the project or program for which it requests an allocation from the state ceiling.

(10) "Housing" means the bond use category which includes: (a) Mortgage revenue bonds and mortgage credit certificates as described in the code; and (b) exempt facility bonds for qualified residential rental projects as described in the code.

(11) "Initial allocation" means the portion or dollar value of the state ceiling which initially in each calendar year is allocated to a bond use category for the issuance of private activity bonds, in accordance with RCW 39.86.120.

(12) "Issuer" means the state, any agency or instrumentality of the state, any political subdivision, or any other entity authorized to issue private activity bonds under state law.

(13) "Private activity bonds" means obligations that are private activity bonds as defined in the code or bonds for purposes described in section 1317(25) of the tax reform act of 1986.

(14) "Program" means the activities for which housing bonds or student loan bonds may be issued.

(15) "Public utility" means the bond use category which includes those bonds described in section 1317(25) of the tax reform act of 1986.

(16) "Redevelopment" means the bond use category which includes qualified redevelopment bonds as described in the code.

(17) "Remainder" means that portion of the state ceiling remaining after initial allocations are made under RCW 39.86.120 for any other bond use category.

(18) "Small issue" means the bond use category which includes all industrial development bonds that constitute qualified small issue bonds, as described in the code.

(19) "State" means the state of Washington.

(20) "State ceiling" means the volume limitation for each calendar year on tax-exempt private activity bonds, as imposed by the code.

(21) "Student loans" means the bond use category which includes qualified student loan bonds as described in the code.

Sec. 24. RCW 42.17.2401 and 2007 c 341 s 48, 2007 c 241 s 2, and 2007 c 15 s 1 are each reenacted and amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the Washington basic health plan, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of ((~~community, trade, and economic development~~)) commerce, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, recreation and conservation funding board, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines ((~~hearing[s]~~)) hearings board, public employees' benefits board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

Sec. 25. RCW 43.17.010 and 2007 c 341 s 46 are each amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of ((~~community, trade, and economic development~~)) commerce, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, (15) the department of financial institutions, (16) the department of

archaeology and historic preservation, (17) the department of early learning, and (18) the Puget Sound partnership, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

Sec. 26. RCW 43.17.020 and 2007 c 341 s 47 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of ((~~community, trade, and economic development~~)) commerce, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, (16) the director of the department of archaeology and historic preservation, (17) the director of early learning, and (18) the executive director of the Puget Sound partnership.

Such officers, except the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

Sec. 27. RCW 43.21F.025 and 1996 c 186 s 102 are each amended to read as follows:

(1) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

(2) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency, or any other entity, public or private, however organized;

(3) "Director" means the director of the department of ((~~community, trade, and economic development~~)) commerce;

(4) "Assistant director" means the assistant director of the department of ((~~community, trade, and economic development~~)) commerce responsible for energy policy activities;

(5) "Department" means the department of ((~~community, trade, and economic development~~)) commerce;

(6) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state; and

(7) "State energy strategy" means the document and energy policy direction developed under section 1, chapter 201, Laws of 1991 including any related appendices.

Sec. 28. RCW 43.31.455 and 2005 c 402 s 3 are each amended to read as follows:

The definitions in this section apply throughout RCW 43.31.450 through 43.31.475 unless the context clearly requires otherwise.

(1) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(2) "Director" means the director of the department of ((~~community, trade, and economic development~~)) commerce.

(3) "Foster youth" means a person who is fifteen years of age or older who is a dependent of the department of social and health services; or a person who is at least fifteen years of age, but not more than twenty-three years of age, who was a dependent of the department of social and health services for at least twenty-four months after attaining thirteen years of age.

(4) "Individual development account" or "account" means an account established by contract between a low-income individual and a sponsoring organization for the benefit of the low-income individual and funded through periodic contributions by the low-income individual which are matched with contributions by or through the sponsoring organization.

(5) "Low-income individual" means a person whose household income is equal to or less than either:

(a) Eighty percent of the median family income, adjusted for household size, for the county or metropolitan statistical area where the person resides; or

(b) Two hundred percent of the federal poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2).

(6) "Program" means the individual development account program established pursuant to RCW 43.31.450 through 43.31.475.

(7) "Sponsoring organization" means: (a) A nonprofit, fund-raising organization that is exempt from taxation under section 501(c)(3) of the internal revenue code as amended and in effect on January 1, 2005; (b) a housing authority established under RCW 35.82.030; or (c) a federally recognized Indian tribe.

Sec. 29. RCW 43.31.522 and 2005 c 136 s 17 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.31.524:

(1) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(2) "Director" means the director of ((~~community, trade, and economic development~~)) commerce.

(3) "Local nonprofit organization" means a local nonprofit organization organized to provide economic development or community development services, including but not limited to associate development organizations, economic development councils, and community development corporations.

Sec. 30. RCW 43.31.800 and 1993 c 280 s 52 are each amended to read as follows:

"Director" as used in RCW 43.31.790 through 43.31.850 and 67.16.100 means the director of ((~~community, trade, and economic development~~)) commerce.

Sec. 31. RCW 43.31C.010 and 2000 c 212 s 2 are each amended to read as follows:

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

(1) "Area" means a geographic area within a local government that is described by a close perimeter boundary.

(2) "Community empowerment zone" means an area meeting the requirements of RCW 43.31C.020 and officially designated by the director.

(3) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(4) "Director" means the director of the department of ((~~community, trade, and economic development~~)) commerce.

(5) "Local government" means a city, code city, town, or county.

Sec. 32. RCW 43.105.020 and 2003 c 18 s 2 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise, the following definitions shall apply:

(1) "Department" means the department of information services;

(2) "Board" means the information services board;

(3) "Committee" means the state interoperability executive committee;

(4) "Local governments" includes all municipal and quasi municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately;

(5) "Director" means the director of the department;

(6) "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. This term includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, telecommunications installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing;

(7) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network;

(8) "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other means;

(9) "Information" includes, but is not limited to, data, text, voice, and video;

(10) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions;

(11) "Information services" means data processing, telecommunications, office automation, and computerized information systems;

(12) "Equipment" means the machines, devices, and transmission facilities used in information processing, such as computers, word processors, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment;

(13) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments;

(14) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications;

(15) "Proprietary software" means that software offered for sale or license;

(16) "Video telecommunications" means the electronic interconnection of two or more sites for the purpose of transmitting and/or receiving visual and associated audio information. Video telecommunications shall not include existing public television broadcast stations as currently designated by the department of ((~~community, trade, and economic development~~)) commerce under chapter 43.330 RCW;

(17) "K-20 educational network board" or "K-20 board" means the K-20 educational network board created in RCW 43.105.800;

(18) "K-20 network technical steering committee" or "committee" means the K-20 network technical steering committee created in RCW 43.105.810;

(19) "K-20 network" means the network established in RCW 43.105.820;

(20) "Educational sectors" means those institutions of higher education, school districts, and educational service districts that use the network for distance education, data transmission, and other uses permitted by the K-20 board.

Sec. 33. RCW 43.155.020 and 2001 c 131 s 1 are each amended to read as follows:

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

(1) "Board" means the public works board created in RCW 43.155.030.

(2) "Capital facility plan" means a capital facility plan required by the growth management act under chapter 36.70A RCW or, for local governments not fully planning under the growth management act, a plan required by the public works board.

(3) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(4) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(5) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi- municipal corporations in the state excluding school districts and port districts.

(6) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems and solid waste facilities, including recycling facilities. A planning project may include the compilation of biological, hydrological, or other data on a county, drainage basin, or region necessary to develop a base of information for a capital facility plan.

(7) "Solid waste or recycling project" means remedial actions necessary to bring abandoned or closed landfills into compliance with regulatory requirements and the repair, restoration, and replacement of existing solid waste transfer, recycling facilities, and landfill projects limited to the opening of landfill cells that are in existing and permitted landfills.

(8) "Technical assistance" means training and other services provided to local governments to: (a) Help such local governments plan, apply, and qualify for loans and financing guarantees from the board, and (b) help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities.

Sec. 34. RCW 43.157.010 and 2004 c 275 s 63 are each amended to read as follows:

(1) For purposes of this chapter and RCW 28A.525.166, 28B.76.210, 28C.18.080, 43.21A.350, 47.06.030, and 90.58.100 and an industrial project of statewide significance is a border crossing project that involves both private and public investments carried out in conjunction with adjacent states or provinces or a private industrial development with private capital investment in manufacturing or research and development. To qualify as an industrial project of statewide significance: (a) The project must be completed after January 1, 1997; (b) the applicant must submit an application for

designation as an industrial project of statewide significance to the department of ((~~community, trade, and economic development~~)) commerce; and (c) the project must have:

(i) In counties with a population of less than or equal to twenty thousand, a capital investment of twenty million dollars;

(ii) In counties with a population of greater than twenty thousand but no more than fifty thousand, a capital investment of fifty million dollars;

(iii) In counties with a population of greater than fifty thousand but no more than one hundred thousand, a capital investment of one hundred million dollars;

(iv) In counties with a population of greater than one hundred thousand but no more than two hundred thousand, a capital investment of two hundred million dollars;

(v) In counties with a population of greater than two hundred thousand but no more than four hundred thousand, a capital investment of four hundred million dollars;

(vi) In counties with a population of greater than four hundred thousand but no more than one million, a capital investment of six hundred million dollars;

(vii) In counties with a population of greater than one million, a capital investment of one billion dollars;

(viii) In counties with fewer than one hundred persons per square mile as determined annually by the office of financial management and published by the department of revenue effective for the period July 1st through June 30th, projected full-time employment positions after completion of construction of fifty or greater;

(ix) In counties with one hundred or more persons per square mile as determined annually by the office of financial management and published by the department of revenue effective for the period July 1st through June 30th, projected full-time employment positions after completion of construction of one hundred or greater; or

(x) Been designated by the director of community, trade, and economic development as an industrial project of statewide significance either: (A) Because the county in which the project is to be located is a distressed county and the economic circumstances of the county merit the additional assistance such designation will bring; or (B) because the impact on a region due to the size and complexity of the project merits such designation.

(2) The term manufacturing shall have the meaning assigned it in RCW 82.61.010.

(3) The term research and development shall have the meaning assigned it in RCW 82.61.010.

(4) The term applicant means a person applying to the department of ((~~community, trade, and economic development~~)) commerce for designation of a development project as an industrial project of statewide significance.

Sec. 35. RCW 43.160.020 and 2008 c 327 s 2 and 2008 c 131 s 1 are each reenacted and amended to read as follows:

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

(1) "Board" means the community economic revitalization board.

(2) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(3) "Local government" or "political subdivision" means any port district, county, city, town, special purpose district, and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities under this chapter.

(4) "Public facilities" means a project of a local government or a federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of bridges, roads, domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, telecommunications, transportation, natural gas, buildings or structures, and port facilities, all for the purpose of job creation, job retention, or job expansion.

(5) "Rural county" means a county with a population density of fewer than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles, as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.

Sec. 36. RCW 43.168.020 and 2008 c 131 s 2 are each amended to read as follows:

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

(1) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(2) "Director" means the director of ((~~community, trade, and economic development~~)) commerce.

(3) "Distressed area" means: (a) A rural county; (b) a county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (c) a county that has a median household income that is less than seventy-five percent of the state median household income for the previous three years; (d) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent; or (e) an area within a county, which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(4) "Fund" means the rural Washington loan fund.

(5) "Local development organization" means a nonprofit organization which is organized to operate within an area, demonstrates a commitment to a long-standing effort for an economic development program, and makes a demonstrable effort to assist in the employment of unemployed or underemployed residents in an area.

(6) "Project" means the establishment of a new or expanded business in an area which when completed will provide employment opportunities. "Project" also means the retention of an existing business in an area which when completed will provide employment opportunities.

(7) "Rural county" has the same meaning as provided in RCW 82.14.370.

Sec. 37. RCW 43.185.020 and 1995 c 399 s 101 are each amended to read as follows:

"Department" means the department of ((~~community, trade, and economic development~~)) commerce. "Director" means the director of the department of ((~~community, trade, and economic development~~)) commerce.

Sec. 38. RCW 43.185A.010 and 2008 c 6 s 301 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions

in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing for rental occupancy which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the family's income. The department shall adopt policies for residential homeownership housing, occupied by low-income households, which specify the percentage of family income that may be spent on monthly housing costs, including utilities other than telephone, to qualify as affordable housing.

(2) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(3) "Director" means the director of the department of ((~~community, trade, and economic development~~)) commerce.

(4) "First-time home buyer" means an individual or his or her spouse or domestic partner who have not owned a home during the three-year period prior to purchase of a home.

(5) "Low-income household" means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located.

Sec. 39. RCW 43.185B.010 and 1995 c 399 s 104 are each amended to read as follows:

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

(1) "Affordable housing" means residential housing that is rented or owned by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

(2) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(3) "Director" means the director of ((~~community, trade, and economic development~~)) commerce.

(4) "Nonprofit organization" means any public or private nonprofit organization that: (a) Is organized under federal, state, or local laws; (b) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and (c) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income, low-income, or moderate-income households and special needs populations.

(5) "Regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including those embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by the state or local government in connection with its strategy under section 105(b)(4) of the Cranston-Gonzalez national affordable housing act (42 U.S.C. 12701 et seq.).

(6) "Tenant-based organization" means a nonprofit organization whose governing body includes a majority of members who reside in the housing development and are considered low-income households.

Sec. 40. RCW 43.185C.010 and 2007 c 427 s 3 are each amended to read as follows:

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

(1) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(2) "Director" means the director of the department of ((~~community, trade, and economic development~~)) commerce.

(3) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, people with mental illness, and sex offenders who are homeless.

(4) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

(5) "Home security fund account" means the state treasury account receiving the state's portion of income from revenue from the sources established by RCW 36.22.179, RCW 36.22.1791, and all other sources directed to the homeless housing and assistance program.

(6) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the ((~~homeless housing~~)) home security fund account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(7) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(8) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(9) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(10) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(11) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, policy level representatives of the following entities: (a) The department of ((~~community, trade, and economic development~~)) commerce; (b) the department of corrections; (c) the department of social and health services; (d) the department of veterans affairs; and (e) the department of health.

(12) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(13) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(15) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(16) "Homeless housing plan" means the ten-year plan developed by the county or other local government to address housing for homeless persons.

(17) "Homeless housing strategic plan" means the ten-year plan developed by the department, in consultation with the interagency council on homelessness and the affordable housing advisory board.

(18) "Washington homeless client management information system" means a database of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations.

Sec. 41. RCW 43.325.010 and 2007 c 348 s 301 are each amended to read as follows:

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

(1) "Applicant" means any political subdivision of the state, including port districts, counties, cities, towns, special purpose districts, and other municipal corporations or quasi-municipal corporations. "Applicant" may also include federally recognized tribes and state institutions of higher education with appropriate research capabilities.

(2) "Alternative fuel" means all products or energy sources used to propel motor vehicles, other than conventional gasoline, diesel, or reformulated gasoline. "Alternative fuel" includes, but is not limited to, cellulose, liquefied petroleum gas, liquefied natural gas, compressed natural gas, biofuels, biodiesel fuel, E85 motor fuel, fuels containing seventy percent or more by volume of alcohol fuel, fuels that are derived from biomass, hydrogen fuel, anhydrous ammonia fuel, nonhazardous motor fuel, or electricity, excluding onboard electric generation.

(3) "Assistance" includes loans, leases, product purchases, or other forms of financial or technical assistance.

(4) "Biofuel" includes, but is not limited to, biodiesel, ethanol, and ethanol blend fuels and renewable liquid natural gas or liquid compressed natural gas made from biogas.

(5) "Biogas" includes waste gases derived from landfills and wastewater treatment plants and dairy and farm wastes.

(6) "Cellulose" means lignocellulosic, hemicellulosic, or other cellulosic matter that is available on a renewable or recurring basis, including dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste.

(7) "Coordinator" means the person appointed by the director of the department of ((~~community, trade, and economic development~~)) commerce.

(8) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(9) "Director" means the director of the department of ((~~community, trade, and economic development~~)) commerce.

(10) "Green highway zone" means an area in the state designated by the department that is within reasonable proximity of state route number 5, state route number 90, and state route number 82.

(11) "Peer review committee" means a board, appointed by the director, that includes bioenergy specialists, energy conservation specialists, scientists, and individuals with specific recognized expertise.

(12) "Project" means the construction of facilities, including the purchase of equipment, to convert farm products or wastes into electricity or gaseous or liquid fuels or other coproducts associated with such conversion. These specifically include fixed or mobile facilities to generate electricity or methane from the anaerobic digestion of organic matter, and fixed or mobile facilities for extracting oils from canola, rape, mustard, and other oilseeds. "Project" may also include the construction of facilities associated with such conversion for the distribution and storage of such feedstocks and fuels.

(13) "Refueling project" means the construction of new alternative fuel refueling facilities, as well as upgrades and expansion of existing refueling facilities, that will enable these facilities to offer alternative fuels to the public.

(14) "Research and development project" means research and development, by an institution of higher education as defined in subsection (1) of this section, relating to:

(a) Bioenergy sources including but not limited to biomass and associated gases; or

(b) The development of markets for bioenergy coproducts.

Sec. 42. RCW 43.336.010 and 2007 c 228 s 101 are each amended to read as follows:

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

(1) "Commission" means the Washington tourism commission.

(2) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(3) "Director" means the director of the department.

(4) "Executive director" means the executive director of the commission.

Sec. 43. RCW 43.338.010 and 2008 c 315 s 2 are each amended to read as follows:

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

(1) "Costs of extension services" and "extension service costs" mean the direct costs experienced under a contract with a qualified manufacturing extension partnership affiliate for modernization extension services, including but not limited to amounts in the contract for costs of consulting, instruction, materials, equipment, rental of class space, marketing, and overhead.

(2) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(3) "Director" means the director of the department of ((~~community, trade, and economic development~~)) commerce.

(4) "Innovation and modernization extension voucher" and "voucher" mean an instrument issued to a successful applicant from the department, verifying that funds from the manufacturing innovation and modernization account will be forwarded to the qualified manufacturing extension partnership affiliate selected by the participant and will cover identified costs of extension services.

(5) "Innovation and modernization extension services" and "service" mean a service funded under this chapter and performed by a qualified manufacturing extension partnership affiliate. The services may include but are not limited to strategic planning, continuous improvement, business development, six sigma, quality improvement, environmental health and safety, lean processes, energy management, innovation and product development, human resources and training, supply chain management, and project management.

(6) "Outreach services" means those activities performed by an affiliate to either assess the technical assistance needs of Washington manufacturers or increase manufacturers' awareness of the opportunities and benefits of implementing cutting edge technology, techniques, and best practices. "Outreach services" includes but is not limited to salaries of outreach staff, needs assessments, client follow-up, public educational events, manufacturing orientated trade shows, electronic communications, newsletters, advertising, direct mail efforts, and contacting business organizations for names of manufacturers who might need assistance.

(7) "Program" means the Washington manufacturing innovation and modernization extension service program created in RCW 43.338.020.

(8) "Program participant" and "participant" mean an applicant for assistance under the program that has received a voucher or a small manufacturer receiving services through an industry association or cluster association that has received a voucher.

(9) "Qualified manufacturing extension partnership affiliate" and "affiliate" mean a private nonprofit organization established under RCW 24.50.010 or other organization that is eligible or certified to receive federal matching funds from the national institute of standards and technology manufacturing extension partnership program of the United States department of commerce.

(10) "Small manufacturer" means a private employer whose primary business is adding value to a product through a manufacturing process and employs one hundred or fewer employees within Washington state.

Sec. 44. RCW 43.360.010 and 2005 c 514 s 908 are each amended to read as follows:

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

(1) "Area" means a geographic area within a local government that is described by a closed perimeter boundary.

(2) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(3) "Director" means the director of the department of ((~~community, trade, and economic development~~)) commerce.

(4) "Local government" means a city, code city, or town.

(5) "Qualified levels of participation" means a local downtown or neighborhood commercial district revitalization program that has been designated by the department.

Sec. 45. RCW 43.362.010 and 2007 c 482 s 2 are each amended to read as follows:

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

(1) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(2) "Nongovernmental entities" includes nonprofit or membership organizations with experience or expertise in transferring development rights.

(3) "Transfer of development rights" includes methods for protecting land from development by voluntarily removing the development rights from a sending area and transferring them to a receiving area for the purpose of increasing development density in the receiving area.

Sec. 46. RCW 43.365.010 and 2006 c 247 s 2 are each amended to read as follows:

The following definitions apply to this chapter, unless the context clearly requires otherwise.

(1) "Approved motion picture competitiveness program" means a nonprofit organization under the internal revenue code, section 501(c)(6), with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production by recommending and awarding financial assistance for costs associated with motion pictures in the state of Washington.

(2) "Contribution" means cash contributions.

(3) "Costs" means actual expenses of production and postproduction expended in Washington state for the production of motion pictures, including but not limited to payments made for salaries, wages, and health insurance and retirement benefits, the rental costs of machinery and equipment and the purchase of services, food, property, lodging, and permits for work conducted in Washington state.

(4) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(5) "Motion picture" means a recorded audio-visual production intended for distribution to theaters, DVD, video, or the internet, or television, or one or more episodes of a single television series, television pilots or presentations, or a commercial. "Motion picture" does not mean production of a television commercial of an amount less than two hundred fifty thousand dollars in actual total investment or one or more segments of a newscast or sporting event.

(6) "Funding assistance" means cash expenditures from an approved motion picture competitiveness program.

(7) "Person" has the same meaning as provided in RCW 82.04.030.

Sec. 47. RCW 59.21.010 and 2002 c 257 s 1 are each amended to read as follows:

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

(1) "Director" means the director of the department of ((~~community, trade, and economic development~~)) commerce.

(2) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(3) "Fund" means the mobile home park relocation fund established under RCW 59.21.050.

(4) "Mobile home park" or "park" means real property that is rented or held out for rent to others for the placement of two or more mobile homes for the primary purpose of production of income, except where the real property is rented or held out for rent for seasonal recreational purpose only and is not intended for year-round occupancy.

(5) "Landlord" or "park-owner" means the owner of the mobile home park that is being closed at the time relocation assistance is provided.

(6) "Relocate" means to remove the mobile home from the mobile home park being closed and to either reinstall it in another location or to demolish it and purchase another mobile/manufactured home constructed to the standards set by the department of housing and urban development.

(7) "Relocation assistance" means the monetary assistance provided under this chapter.

Sec. 48. RCW 59.22.020 and 1995 c 399 s 155 are each amended to read as follows:

The following definitions shall apply throughout this chapter unless the context clearly requires otherwise:

(1) "Account" means the ((~~mobile home affairs~~)) manufactured housing account created under RCW 59.22.070.

(2) "Affordable" means that, where feasible, low-income residents should not pay more than thirty percent of their monthly income for housing costs.

(3) "Conversion costs" includes the cost of acquiring the mobile home park, the costs of planning and processing the conversion, the costs of any needed repairs or rehabilitation, and any expenditures required by a government agency or lender for the project.

(4) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(5) "Fee" means the mobile home title transfer fee imposed under RCW 59.22.080.

(6) "Fund" or "park purchase account" means the mobile home park purchase account created pursuant to RCW 59.22.030.

(7) "Housing costs" means the total cost of owning, occupying, and maintaining a mobile home and a lot or space in a mobile home park.

(8) "Individual interest in a mobile home park" means any interest which is fee ownership or a lesser interest which entitles the holder to occupy a lot or space in a mobile home park for a period of not less than either fifteen years or the life of the holder. Individual interests in a mobile home park include, but are not limited to, the following:

(a) Ownership of a lot or space in a mobile home park or subdivision;

(b) A membership or shares in a stock cooperative, or a limited equity housing cooperative; or

(c) Membership in a nonprofit mutual benefit corporation which owns, operates, or owns and operates the mobile home park.

(9) "Low-income resident" means an individual or household who resided in the mobile home park prior to application for a loan pursuant to this chapter and with an annual income at or below eighty percent of the median income for the county of standard metropolitan statistical area of residence. Net worth shall be considered in the calculation of income with the exception of the resident's mobile/manufactured home which is used as their primary residence.

(10) "Low-income spaces" means those spaces in a mobile home park operated by a resident organization which are occupied by low-income residents.

(11) "Mobile home park" means a mobile home park, as defined in RCW 59.20.030((~~(4)~~)) (10), or a manufactured home park subdivision as defined by RCW 59.20.030((~~(6)~~)) (12) created by the conversion to resident ownership of a mobile home park.

(12) "Resident organization" means a group of mobile home park residents who have formed a nonprofit corporation, cooperative corporation, or other entity or organization for the purpose of acquiring the mobile home park in which they reside and converting the mobile home park to resident ownership. The membership of a resident organization shall include at least two-thirds of the households residing in the mobile home park at the time of application for assistance from the department.

(13) "Resident ownership" means, depending on the context, either the ownership, by a resident organization, as defined in this section, of an interest in a mobile home park which entitles the resident organization to control the operations of the mobile home park for a term of no less than fifteen years, or the ownership of individual interests in a mobile home park, or both.

(14) "Landlord" shall have the same meaning as it does in RCW 59.20.030.

(15) "Manufactured housing" means residences constructed on one or more chassis for transportation, and which bear an insignia issued by a state or federal regulatory agency indication compliance with all applicable construction standards of the United States department of housing and urban development.

(16) "Mobile home" shall have the same meaning as it does in RCW 46.04.302.

(17) "Mobile home lot" shall have the same meaning as it does in RCW 59.20.030.

(18) "Tenant" means a person who rents a mobile home lot for a term of one month or longer and owns the mobile home on the lot.

Sec. 49. RCW 70.103.020 and 2003 c 322 s 2 are each amended to read as follows:

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

(1) "Abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards.

(a) Abatement includes, but is not limited to:

(i) The removal of paint and dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of painted surfaces or fixtures, or the removal or permanent covering of soil, when lead-based paint hazards are present in such paint, dust, or soil; and

(ii) All preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

(b) Specifically, abatement includes, but is not limited to:

(i) Projects for which there is a written contract or other documentation, which provides that an individual or firm will be conducting activities in or to a residential dwelling or child-occupied facility that:

(A) Shall result in the permanent elimination of lead-based paint hazards; or

(B) Are designed to permanently eliminate lead-based paint hazards and are described in (a)(i) and (ii) of this subsection;

(ii) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by certified firms or individuals, unless such projects are covered by (c) of this subsection;

(iii) Projects resulting in the permanent elimination of lead-based paint hazards, conducted by firms or individuals who, through their company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by this section, unless such projects are covered by (c) of this subsection; or

(iv) Projects resulting in the permanent elimination of lead-based paint hazards, that are conducted in response to state or local abatement orders.

(c) Abatement does not include renovation, remodeling, landscaping, or other activities, when such activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. Furthermore, abatement does not include interim controls, operations and maintenance activities, or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards.

(2) "Accredited training program" means a training program that has been accredited by the department to provide training for individuals engaged in lead-based paint activities.

(3) "Certified inspector" means an individual who has been trained by an accredited training program, meets all the qualifications established by the department, and is certified by the department to conduct inspections.

(4) "Certified abatement worker" means an individual who has been trained by an accredited training program, meets all the qualifications established by the department, and is certified by the department to perform abatements.

(5) "Certified firm" includes a company, partnership, corporation, sole proprietorship, association, agency, or other business entity that meets all the qualifications established by the department and performs lead-based paint activities to which the department has issued a certificate.

(6) "Certified project designer" means an individual who has been trained by an accredited training program, meets all the qualifications established by the department, and is certified by the department to prepare abatement project designs, occupant protection plans, and abatement reports.

(7) "Certified risk assessor" means an individual who has been trained by an accredited training program, meets all the qualifications established by the department, and is certified by the department to conduct risk assessments and sample for the presence of lead in dust and soil for the purposes of abatement

clearance testing.

(8) "Certified supervisor" means an individual who has been trained by an accredited training program, meets all the qualifications established by the department, and is certified by the department to supervise and conduct abatements, and to prepare occupant protection plans and abatement reports.

(9) "Department" means the Washington state department of ((~~community, trade, and economic development~~)) commerce.

(10) "Director" means the director of the Washington state department of ((~~community, trade, and economic development~~)) commerce.

(11) "Federal laws and rules" means:

(a) Title IV, toxic substances control act (15 U.S.C. Sec. 2681 et seq.) and the rules adopted by the United States environmental protection agency under that law for authorization of state programs;

(b) Any regulations or requirements adopted by the United States department of housing and urban development regarding eligibility for grants to states and local governments; and

(c) Any other requirements adopted by a federal agency with jurisdiction over lead-based paint hazards.

(12) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

(13) "Lead-based paint activity" includes inspection, testing, risk assessment, lead-based paint hazard reduction project design or planning, or abatement of lead-based paint hazards.

(14) "Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the administrator of the United States environmental protection agency under the toxic substances control act, section 403.

(15) "State program" means a state administered lead-based paint activities certification and training program that meets the federal environmental protection agency requirements.

(16) "Person" includes an individual, corporation, firm, partnership, or association, an Indian tribe, state, or political subdivision of a state, and a state department or agency.

(17) "Risk assessment" means:

(a) An on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards; and

(b) The provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

Sec. 50. RCW 70.125.030 and 2000 c 54 s 1 are each amended to read as follows:

As used in this chapter and unless the context indicates otherwise:

(1) "Core services" means treatment services for victims of sexual assault including information and referral, crisis intervention, medical advocacy, legal advocacy, support, system coordination, and prevention for potential victims of sexual assault.

(2) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(3) "Law enforcement agencies" means police and sheriff's departments of this state.

(4) "Personal representative" means a friend, relative, attorney, or employee or volunteer from a community sexual assault program or specialized treatment service provider.

(5) "Rape crisis center" means a community-based social service agency which provides services to victims of sexual assault.

(6) "Community sexual assault program" means a community-based social service agency that is qualified to provide and provides core services to victims of sexual assault.

(7) "Sexual assault" means one or more of the following:

(a) Rape or rape of a child;

(b) Assault with intent to commit rape or rape of a child;

(c) Incest or indecent liberties;

(d) Child molestation;

(e) Sexual misconduct with a minor;

(f) Custodial sexual misconduct;

(g) Crimes with a sexual motivation; or

(h) An attempt to commit any of the aforementioned offenses.

(8) "Specialized services" means treatment services for victims of sexual assault including support groups, therapy, and specialized sexual assault medical examination.

(9) "Victim" means any person who suffers physical and/or mental anguish as a proximate result of a sexual assault.

Sec. 51. RCW 70.164.020 and 1995 c 399 s 199 are each amended to read as follows:

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

(1) "Department" means the department of ((~~community, trade, and economic development~~)) commerce.

(2) "Energy assessment" means an analysis of a dwelling unit to determine the need for cost-effective energy conservation measures as determined by the department.

(3) "Household" means an individual or group of individuals living in a dwelling unit as defined by the department.

(4) "Low income" means household income that is at or below one hundred twenty-five percent of the federally established poverty level.

(5) "Nonutility sponsor" means any sponsor other than a public service company, municipality, public utility district, mutual or cooperative, furnishing gas or electricity used to heat low-income residences.

(6) "Residence" means a dwelling unit as defined by the department.

(7) "Sponsor" means any entity that submits a proposal under RCW 70.164.040, including but not limited to any local community action agency, community service agency, or any other participating agency or any public service company, municipality, public utility district, mutual or cooperative, or any combination of such entities that jointly submits a proposal.

(8) "Sponsor match" means the share, if any, of the cost of weatherization to be paid by the sponsor.

(9) "Weatherization" means materials or measures, and their installation, that are used to improve the thermal efficiency of a residence.

(10) "Weatherizing agency" means any approved department grantee or any public service company, municipality, public utility district, mutual or cooperative, or other entity that bears the responsibility for ensuring the performance of weatherization of residences under this chapter and has been approved by the department.

Sec. 52. RCW 70.190.010 and 1996 c 132 s 2 are each amended to read as follows:

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

(1) "Administrative costs" means the costs associated with procurement; payroll processing; personnel functions; management; maintenance and operation of space and property; data processing and computer services; accounting; budgeting; auditing; indirect costs; and organizational planning,

consultation, coordination, and training.

(2) "Assessment" has the same meaning as provided in RCW 43.70.010.

(3) "At-risk" children are children who engage in or are victims of at-risk behaviors.

(4) "At-risk behaviors" means violent delinquent acts, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence.

(5) "Community public health and safety networks" or "networks" means the organizations authorized under RCW 70.190.060.

(6) "Comprehensive plan" means a two-year plan that examines available resources and unmet needs for a county or multicounty area, barriers that limit the effective use of resources, and a plan to address these issues that is broadly supported by local residents.

(7) "Participating state agencies" means the office of the superintendent of public instruction, the department of social and health services, the department of health, the employment security department, the department of ((~~community, trade, and economic development~~)) commerce, and such other departments as may be specifically designated by the governor.

(8) "Family policy council" or "council" means the superintendent of public instruction, the secretary of social and health services, the secretary of health, the commissioner of the employment security department, and the director of the department of ((~~community, trade, and economic development~~)) commerce or their designees, one legislator from each caucus of the senate and house of representatives, and one representative of the governor.

(9) "Fiduciary interest" means (a) the right to compensation from a health, educational, social service, or justice system organization that receives public funds, or (b) budgetary or policy-making authority for an organization listed in (a) of this subsection. A person who acts solely in an advisory capacity and receives no compensation from a health, educational, social service, or justice system organization, and who has no budgetary or policy-making authority is deemed to have no fiduciary interest in the organization.

(10) "Outcome" or "outcome based" means defined and measurable outcomes used to evaluate progress in reducing the rate of at-risk children and youth through reducing risk factors and increasing protective factors.

(11) "Matching funds" means an amount no less than twenty-five percent of the amount budgeted for a network. The network's matching funds may be in-kind goods and services. Funding sources allowable for match include appropriate federal or local levy funds, private charitable funding, and other charitable giving. Basic education funds shall not be used as a match. State general funds shall not be used as a match for violence reduction and drug enforcement account funds created under RCW 69.50.520.

(12) "Policy development" has the same meaning as provided in RCW 43.70.010.

(13) "Protective factors" means those factors determined by the department of health to be empirically associated with behaviors that contribute to socially acceptable and healthy nonviolent behaviors. Protective factors include promulgation, identification, and acceptance of community norms regarding appropriate behaviors in the area of delinquency, early sexual activity, alcohol and substance abuse, educational opportunities, employment opportunities, and absence of crime.

(14) "Risk factors" means those factors determined by the department of health to be empirically associated with at-risk behaviors that contribute to violence.

Sec. 53. RCW 80.36.005 and 2003 c 134 s 1 are each amended to read as follows:

The definitions in this section apply throughout RCW 80.36.410 through 80.36.475, unless the context clearly requires otherwise.

(1) "Community agency" means local community agencies that administer community service voice mail programs.

(2) "Community service voice mail" means a computerized voice mail system that provides low-income recipients with: (a) An individually assigned telephone number; (b) the ability to record a personal greeting; and (c) a private security code to retrieve messages.

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

(4) "Service year" means the period between July 1st and June 30th.

(5) "Community action agency" means local community action agencies or local community service agencies designated by the department of ((~~community, trade, and economic development~~)) commerce under chapter 43.63A RCW.

Sec. 54. RCW 80.80.010 and 2007 c 307 s 2 are each amended to read as follows:

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

(1) "Attorney general" means the Washington state office of the attorney general.

(2) "Auditor" means: (a) The Washington state auditor's office or its designee for consumer-owned utilities under its jurisdiction; or (b) an independent auditor selected by a consumer-owned utility that is not under the jurisdiction of the state auditor.

(3) "Average available greenhouse ((~~gases [gas]~~)) gas emissions output" means the level of greenhouse ((~~gases [gas]~~)) gas emissions as surveyed and determined by the energy policy division of the department of ((~~community, trade, and economic development~~)) commerce under RCW 80.80.050.

(4) "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least sixty percent.

(5) "Cogeneration facility" means a power plant in which the heat or steam is also used for industrial or commercial heating or cooling purposes and that meets federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978 (16 U.S.C. Sec. 824a-3), as amended.

(6) "Combined-cycle natural gas thermal electric generation facility" means a power plant that employs a combination of one or more gas turbines and steam turbines in which electricity is produced in the steam turbine from otherwise lost waste heat exiting from one or more of the gas turbines.

(7) "Commission" means the Washington utilities and transportation commission.

(8) "Consumer-owned utility" means a municipal utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, or port district within which an industrial district has been established as authorized by Title 53 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(9) "Department" means the department of ecology.

(10) "Distributed generation" means electric generation

connected to the distribution level of the transmission and distribution grid, which is usually located at or near the intended place of use.

(11) "Electric utility" means an electrical company or a consumer-owned utility.

(12) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.

(13) "Governing board" means the board of directors or legislative authority of a consumer-owned utility.

(14) "Greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(15) "Long-term financial commitment" means:

(a) Either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or

(b) A new or renewed contract for baseload electric generation with a term of five or more years for the provision of retail power or wholesale power to end-use customers in this state.

(16) "Plant capacity factor" means the ratio of the electricity produced during a given time period, measured in kilowatt-hours, to the electricity the unit could have produced if it had been operated at its rated capacity during that period, expressed in kilowatt-hours.

(17) "Power plant" means a facility for the generation of electricity that is permitted as a single plant by the energy facility site evaluation council or a local jurisdiction.

(18) "Upgrade" means any modification made for the primary purpose of increasing the electric generation capacity of a baseload electric generation facility. "Upgrade" does not include routine or necessary maintenance, installation of emission control equipment, installation, replacement, or modification of equipment that improves the heat rate of the facility, or installation, replacement, or modification of equipment for the primary purpose of maintaining reliable generation output capability that does not increase the heat input or fuel usage as specified in existing generation air quality permits as of July 22, 2007, but may result in incidental increases in generation capacity.

Sec. 55. RCW 82.73.010 and 2005 c 514 s 902 are each amended to read as follows:

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

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

(2) "Contribution" means cash contributions.

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

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

(5) "Program" means a nonprofit organization under internal revenue code sections 501(c)(3) or 501(c)(6), with the sole mission of revitalizing a downtown or neighborhood commercial district area, that is designated by the department of ((~~community, trade, and economic development~~)) commerce as described in RCW 43.360.010 through 43.360.050.

(6) "Main street trust fund" means the department of ((~~community, trade, and economic development's~~)) commerce's main street trust fund account under RCW 43.360.050.

NEW SECTION. **Sec. 56.** RCW 43.330.005 and 43.330.904 are decodified.

NEW SECTION. **Sec. 57.** (1) Section 16 of this act expires July 1, 2015.

(2) Section 41 of this act expires June 30, 2016.

NEW SECTION. **Sec. 58.** The code reviser shall note wherever director or department of community, trade, and economic development is used or referred to in statute that the name of the department has changed. The code reviser shall prepare legislation for the 2010 regular session that changes all statutory references to director or department of community, trade, and economic development to director or department of commerce."

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed House Bill No. 2242.

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

MOTION

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

On page 1, line 1 of the title, after "commerce;" strike the remainder of the title and insert "amending RCW 43.330.007, 43.330.010, 43.330.020, 43.330.092, 43.330.094, 43.330.125, 43.330.135, 43.330.167, 43.330.170, 43.330.210, 43.330.240, 43.330.250, 43.330.280, 43.330.290, 43.330.300, 43.330.900, 19.260.020, 19.280.020, 19.285.030, 35.105.010, 36.70A.030, 39.86.110, 43.17.010, 43.17.020, 43.21F.025, 43.31.455, 43.31.522, 43.31.800, 43.31C.010, 43.105.020, 43.155.020, 43.157.010, 43.168.020, 43.185.020, 43.185A.010, 43.185B.010, 43.185C.010, 43.325.010, 43.336.010, 43.338.010, 43.360.010, 43.362.010, 43.365.010, 59.21.010, 59.22.020, 70.103.020, 70.125.030, 70.164.020, 70.190.010, 80.36.005, 80.80.010, and 82.73.010; reenacting and amending RCW 42.17.2401 and 43.160.020; adding a new section to chapter 43.330 RCW; creating a new section; decodifying RCW 43.330.005 and 43.330.904; and providing expiration dates."

MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed House Bill No. 2242 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

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

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2242 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2242 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Fairley and Tom

ENGROSSED HOUSE BILL NO. 2242 as amended by the Senate, having received the constitutional majority, was

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

SECOND READING

SENATE BILL NO. 6183, by Senator Regala

Changing the provisions relating to the early deportation of illegal alien offenders.

The measure was read the second time.

MOTION

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

On page 1 line 19, after "designee" strike "((~~find [finds] that such release is in the best interests of the state of Washington~~))" and insert "finds that such release is in the best interests of the state of Washington and"

On page 2, line 21, strike "((~~shall~~)) may" and insert "shall, upon making a finding that it is in the best interest of the state,"

Senators Regala and Prentice spoke in favor of adoption of the amendment.

Senator Carrel spoke on the adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Regala and others on page 1, line 19 to Senate Bill No. 6183.

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

MOTION

Senator Carrell moved that the following amendment by Senator Carrell be adopted.

On page 2, beginning on line 19, after "effect" strike "until the expiration of the offender's conditional release" and insert "((~~until the expiration of the offender's conditional release~~)) indefinitely"

Senators Carrell and Brandland spoke in favor of adoption of the amendment.

Senators Prentice and Regala spoke against adoption of the amendment.

Senator Carrell demanded a roll call.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Carrell on page 2, line 19 to Senate Bill No. 6183.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Carrell and the amendment was not adopted by the following vote: Yeas, 20; Nays, 29 Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kilmer, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

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

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Senate Bill No. 6183 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

Senators Carrell and Brandland spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6183.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6183 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 6; Absent, 0; Excused, 0.

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

Voting nay: Senators Benton, Brandland, Carrell, Delvin, Morton and Swecker

ENGROSSED SENATE BILL NO. 6183, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PARLIAMENTARY INQUIRY

Senator McCaslin: "Would the President consider instituting a meals on wheels program for these late nights?"

NOTICE OF RECONSIDERATION

Senator Marr gave notice of his intent to move to reconsider the vote by which Substitute House Bill No. 1972 failed to pass the Senate.

SECOND READING

SENATE BILL NO. 6166, by Senators Hargrove, Ranker, Rockefeller, Jacobsen and Morton

Concerning the sale of timber from state trust lands.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Morton be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that it is in the best interest of the trust beneficiaries to capture additional revenues while providing for additional environmental protection and improving forest health on state trust lands. Further, the legislature finds that contract harvesting is one method to achieve these desired outcomes while also providing the department of natural resources with the ability to offer opportunities to merchandise high value wood. The legislature intends that the department of natural resources should have the ability to expand their contract sales in areas where other sales

do not generate as much revenue or provide resource management benefits. The legislature further intends that the department of natural resources distribute the increased contract harvest authority across all trusts and markets.

Sec. 2. RCW 79.15.510 and 2004 c 218 s 6 are each amended to read as follows:

(1) The department may establish a contract harvesting program for directly contracting for the removal of timber and other valuable materials from state lands and for conducting silvicultural treatments consistent with RCW 79.15.540.

(2) The contract requirements must be compatible with the office of financial management's guide to public service contracts.

(3) The department may not use contract harvesting for more than ((~~ten~~)) twenty percent of the total annual volume of timber offered for sale. However, volume removed primarily to address an identified forest health issue under RCW 79.15.540 may not be included in calculating the ten percent annual limit of contract harvesting sales.

Sec. 3. RCW 79.15.520 and 2004 c 218 s 7 are each amended to read as follows:

(1) The contract harvesting revolving account is created in the custody of the state treasurer. All receipts from the gross proceeds of the sale of logs from a contract harvesting sale must be deposited into the account. Expenditures from the account may be used only for the payment of harvesting costs incurred on contract harvesting sales and for payment of costs incurred from silvicultural treatments necessary to improve forest health conducted under RCW 79.15.540. Only the commissioner or the commissioner's designee may authorize expenditures from the account. The board of natural resources has oversight of the account, and the commissioner must periodically report to the board of natural resources as to the status of the account, its disbursement, and receipts. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) When the logs from a contract harvesting sale are sold, the gross proceeds must be deposited into the contract harvesting revolving account. Moneys equal to the harvesting costs must be retained in the account and be deducted from the gross proceeds to determine the net proceeds. The net proceeds from the sale of the logs must be distributed in accordance with RCW 43.30.325(1)(b). The final receipt of gross proceeds on a contract harvesting sale must be retained in the contract harvesting revolving account until all required costs for that sale have been paid. The contract harvesting revolving account is an interest-bearing account and the interest must be credited to the account. The account balance may not exceed ((~~one~~)) five million dollars at the end of each ((~~fiscal~~)) calendar year. Moneys in excess of ((~~one~~)) five million dollars must be disbursed according to RCW 79.22.040, 79.22.050, and 79.64.040. If the department permanently discontinues the use of contract harvesting sales, any sums remaining in the contract harvesting revolving account must be returned to the resource management cost account and the forest development account in proportion to each account's contribution to the initial balance of the contract harvesting revolving account.

Sec. 4. RCW 79.15.060 and 2003 c 334 s 329 are each amended to read as follows:

(1) For the sale of valuable materials under this chapter, if the board is required by law to appraise the sale, the board must establish a minimum appraisal value that is valid for a period of one hundred eighty days, or a longer period as may be established by resolution. The board may reestablish the minimum appraisal value at any time. For any valuable materials sales that the board is required by law to appraise, the board may by resolution transfer this authority to the department.

(2) Where the board has set a minimum appraisal value for a valuable materials sale, the department may set the final appraisal value of valuable materials for auction, which must be ((~~equal to or greater than the board's minimum appraisal value~~)) based on current market prices. The department may also appraise any valuable materials sale not required by law to be approved by the board.

NEW SECTION. **Sec. 5.** A new section is added to chapter 79.15 RCW to read as follows:

(1) The department is directed, to the extent possible under current law consistent with its responsibility to the trust beneficiaries, to consider requests from purchasers for timber sale extensions and to provide flexibility in timber sale contract administration to help mitigate against the potential for contract default.

(2) By December 1, 2009, the department shall report to the appropriate committees of the legislature on the status of existing contracts, contract extensions, contract defaults, and shall provide a timber market forecast for 2010 and 2011.

NEW SECTION. **Sec. 6.** The department of natural resources must report to the appropriate committees of the legislature by December 1, 2013, on the effectiveness of the twenty percent contract harvesting program. The report must include a comparison of the revenues generated through contracts compared to other sale processes, including differences in management costs, efficiencies, and market opportunities. The report must provide recommendations regarding the department's contract harvesting program and the contract harvest volume limit.

NEW SECTION. **Sec. 7.** This act expires January 1, 2014."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Morton to Senate Bill No. 6166.

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

MOTION

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

On page 1, line 1 of the title, after "lands;" strike the remainder of the title and insert "amending RCW 79.15.510, 79.15.520, and 79.15.060; adding a new section to chapter 79.15 RCW; creating new sections; and providing an expiration date."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Senate Bill No. 6166 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6166.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6166 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

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

Voting nay: Senators Becker, Brandland, Carrell, Delvin,

Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

ENGROSSED SENATE BILL NO. 6166, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

April 22, 2009

MR. PRESIDENT:

The House adheres in its position in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1709.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate recede from its position on Engrossed Substitute House Bill No. 1709 and pass the bill without the Senate amendment(s).

Senators Franklin and Ranker spoke in favor of passage of the motion.

Senators Benton, Prentice, McCaslin and Berkey spoke against passage of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles to recede from the Senate amendments to Engrossed Substitute House Bill No. 1709 and pass the bill without the Senate amendments.

Senator Eide demanded a roll call.

The President declared that one-sixth of the Senate support the demand. The demand is sustained.

ROLL CALL

The Secretary called the roll on the motion by Senator Kohl-Welles and the motion carried by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

Voting yea: Senators Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hobbs, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pridemore, Ranker, Regala, Rockefeller and Tom

Voting nay: Senators Becker, Benton, Berkey, Brandland, Carrell, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, Jacobsen, King, McCaslin, Morton, Parlette, Pflug, Prentice, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

MOTION

Senator Benton moved that the rules be suspended and Engrossed Substitute House Bill No. 1709 be returned to second reading for the purposes of amendment.

The motion by Senator Benton did not carry by a rising vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1709 without the Senate amendments.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1709, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hobbs, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Pridemore, Ranker, Regala, Rockefeller and Tom

Voting nay: Senators Becker, Berkey, Brandland, Carrell, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, Jacobsen, King, McCaslin, Morton, Parlette, Pflug, Prentice, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1709, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 7:53 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Thursday, April 23, 2009.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate