FIFTY-NINTH DAY

MORNING SESSION

Senate Chamber, Olympia, Wednesday, March 12, 2008

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton and Brown.

The Sergeant at Arms Color Guard consisting of Pages Cameron Woodcock and Molly Woodcock, presented the Colors. Pastor Wilson Wieberg of Ballard First Lutheran Church offered the prayer.

MOTION

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

MOTION

At 9:10 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 10:26 a.m. by President Owen.

MOTION

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

MOTION

Senator Parlette moved adoption of the following resolution:

SENATE RESOLUTION
8744

By Senators Parlette, Kastama, Tom, Shin, Kline, Zarelli, Carrell, King, Morton, McCaslin, Schoesler, and Stevens

WHEREAS, Washington's apple industry is a major contributor to the economic health of both the state and its people; and

WHEREAS, The City of Wenatchee is preparing to celebrate the 89th annual Washington State Apple Blossom Festival to take place from April 24 through May 4, 2008; and

WHEREAS, The Apple Blossom Festival, which began as a one-day gathering of poetry and song in Wenatchee's Memorial Park, is one of the oldest major festivals in the state and was first celebrated in 1919 when Mrs. E. Wagner organized the first Blossom Day; and

WHEREAS, The Apple Blossom Festival celebrates the importance of the apple industry in the Wenatchee Valley and its environs; and

WHEREAS, The Apple Blossom Festival recognizes three young women who by their superior and distinctive efforts have exemplified the spirit and meaning of the Apple Blossom Festival; and

WHEREAS, These three young women are selected to reign over the Apple Blossom Festival and serve as ambassadors to the outlying communities as Princesses and Queen; and

WHEREAS, Emily Love has been selected to represent her community as a 2008 Apple Blossom Princess, in part for her strong academic performance and diverse array of extracurricular activities and interests, including her passion for music, her athletic abilities, her care for others, and the generosity she shows by giving of her time as a Homework Center tutor for middle-school students, in addition to her fun, bubbly, and playful nature and strong faith; and

WHEREAS, Nicole Brown has been selected to represent her community as a 2008 Apple Blossom Princess, in part for her servant's heart, which is exemplified through her positive can-do attitude, her involvement in the American Diabetes Association, and devotion of her time to children with Down Syndrome through Buddy Walk, in addition to her strong academic performance and her participation in numerous extracurricular activities, including the Spanish club, varsity volleyball, and varsity golf; and

WHEREAS, Justine Vanderpool has been selected to represent her community as the 2008 Apple Blossom Queen, in part for her interest in agriculture which is exhibited in her participation as a Future Farmers of America officer and involvement in 4-H, her desire to challenge herself academically as a Running Start participant, her involvement at school and in her community as a member of the Key Club, varsity softball, and volunteer work at the Humane Society, all of which exemplify her versatility in adapting to whatever situation arises, and brings out her love for people, animals, and the agricultural community; and

WHEREAS, These three young women all desire to utilize their proven leadership ambition to serve their communities and be of help to those they encounter;

NOW, THEREFORE, BE IT RESOLVED, That the Senate of the State of Washington honor the accomplishments of the members of the Apple Blossom Festival Court and join the City of Wenatchee and the people of the State of Washington in celebrating the Washington State Apple Blossom Festival; and

BE IT FURTHER RESOLVED, That copies of this Resolution be immediately transmitted by the Secretary of the Senate to Queen Justine Vanderpool, Princess Nicole Brown, Princess Emily Love, and the Board of Directors and Chairpeople of the Washington State Apple Blossom Festival.

Senator Parlette spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8744.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Queen Justine Vanderpool, Princess Emily Love and Princess Nicole Brown, the 2008 Apple Blossom Court, who were seated at the rostrum.

With permission of the Senate, business was suspended to allow Queen Justine Vanderpool to address the Senate.

QUEEN JUSTINE VANDERPOOL REMARKS

Justine Vanderpool: “Good morning, I’m Queen Justine Vanderpool. This is Princess Nicole Brown and Princess Emily. To begin with we’d like to sing you a little song we wrote. ‘Well, it’s almost apple blossom time. We put together this song in rhyme about Wenatchee Valley’s favorite time of year. They’ll be arts and crafts and entertainment, all the kids are going to have their day. Wave as they all march down the youth parade. The food buffet hey, hey what can we say? We’ll have to eat there every day. See the lights down at the carnival and hear the cheers. Hurray. It’s time for the grand parade, the Appliarians smile and wave. So glad it’s Apple Blossom time again, we’re so glad it’s Apple Blossom time again.’ Thank you, on behalf of Princess Nicole, Princess Emily and myself we’d like to thank you all for inviting us here today. We’re both fortunate and elated to have been selected as members of the 2008 Royalty for the Washington State Apple Blossom Festival. It is a grand experience and we’re grateful for being able to tour the capital and visit with you all today. We do have another order of business that we hope will sound appealing and that is to petition you to come visit us. As you recall, Wenatchee is the heart of our state. All can feel at ease that there are many fun activities and accommodations to suit any family or age group.

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We have tennis courts, golf courses and fun activities around the Valley for any family. For all those athletes, we have hiking trails and dozens of camping facilities all located in the area. For the water lovers, we have Lake Chelan and Lake Wenatchee right up the river. These are great places for water skiing, fishing or relaxing on those hot summer days. Our Apple Blossom festivities convene April 24 through May 4 of this year. Our community is so supportive. It sponsors a wide variety of fun activities during this time. Some of the agenda include: arts and crafts fair, youth parade, kids day the carnival and the food fair and to make things more interesting there are also some form of entertainment going on in our Memorial Park in the afternoons. Thank you for having us all here today. I would like to mention that our very favorite activity is the grand parade. This is a time when schools and representatives from all over the Pacific Northwest join us for this session. Different clubs, bands and royalty members participate. It truly is a sight to see. From swimming in the Columbia river to soaring over the Valley at top of Mission Ridge, we have the ways and means to entertain all. Rivers, dams, lakes, valleys, mountains, ski resorts, garden and the prestigious Apple Blossom Festival are all located in our beautiful Wenatchee Valley. So don't debate the thought any longer. At our executive request, join us and see our community come together for it's biggest festival of the year. Sine Die is upon us and we must now go but we want once again thank you for inviting us here today and we hope to see you all at the 89th Washington State Apple Blossom Festival coming this April."

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced representatives of the Apple Blossom Festival, Apple Blossom Chaperon's, Jim and Carol Adamson; Vera Curtis, her husband and former member of the House of Representatives, Bob Curtis: Also accompanying the Royalty Court were former Speaker of the House, Clyde Ballard and wife Ruth who were all seated in the gallery.

MOTION

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

MESSAGE FROM THE HOUSE

March 7, 2008

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5959, with the following amendment: 5959-S.E AMH ENGR H5901.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that there is a large, unmet need for affordable housing and affordable housing assistance in the state of Washington, causing many low-income individuals and families to be at risk of homelessness. The legislature declares that a decent, appropriate, and affordable home in a healthy, safe environment for every household should be a state goal. Furthermore, this goal includes increasing the percentage of low-income households who are ultimately able to obtain and retain housing without government subsidies or other public support.

(2) The legislature finds that the state should provide financial resources as well as case management to help individuals and families at risk of homelessness obtain and retain housing and work towards a goal of self-sufficiency where possible.

(3) The legislature finds that there are many root causes of the affordable housing shortage and declares that it is critical that such causes be analyzed, effective solutions be developed, implemented, monitored, and evaluated, and that these causal factors be eliminated. The legislature also finds that there is a taxpayer and societal cost associated with a lack of jobs that pay self-sufficiency standard wages and a shortage of affordable housing, and that the state must identify and quantify that cost.

(4) The legislature finds that the support and commitment of all sectors of the statewide community is critical to accomplishing the state's affordable housing for all goal. The legislature finds that the provision of housing and housing-related services should be administered both at the state level and at the local level. However, the state should play a primary role in: Providing financial resources to achieve the goal at all levels of government; researching, evaluating, benchmarking, and implementing best practices; continually updating and evaluating statewide housing data; developing a state plan that integrates the strategies, goals, objectives, and performance measures of all other state housing plans and programs; coordinating and supporting county government plans and activities; and directing quality management practices by monitoring both state and county government performance towards achieving interim and ultimate goals.

(5) The legislature declares that the systematic and comprehensive performance measurement and evaluation of progress toward interim goals and the immediate state affordable housing goal of a decent, appropriate, and affordable home in a healthy, safe environment for every household in the state by 2020 is a necessary component of the statewide effort to end the affordable housing crisis.

NEW SECTION. **Sec. 2.** This chapter may be known and cited as the Washington affordable housing for all act.

NEW SECTION. **Sec. 3.** There is created within the department the state affordable housing for all program. The goal of the program is a decent, appropriate, and affordable home in a healthy, safe environment for every household in the state by 2020. A priority must be placed upon achieving this goal for extremely low-income households as well as all households who are at risk of homelessness. This goal includes: (1) Increasing the percentage of households who access housing that is affordable for their income or wage level without government assistance by increasing the number of previously very low-income households who achieve self-sufficiency and economic independence; (2) providing financial assistance, either from the state or local resources to individuals and families at risk of homelessness, coupled with supportive services to assist families to ultimately achieve self-sufficiency whenever possible; and (3) implementing strategies to keep the rising price of housing for all economic segments to a rate less than that of the overall growth in wages for each economic segment. The department shall develop and administer the affordable housing for all program. Each county shall participate in the affordable housing for all program except as provided in section 8 of this act; however, in the development and implementation of the program scope and requirements at the county level, the department shall consider: The funding level to counties, number of county staff available to implement the program, and competency of each county to meet the goals of the program; and establish program guidelines, performance measures, and reporting requirements appropriate to the existing capacity of the participating counties.

NEW SECTION. **Sec. 4.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means housing that has a sales price or rental amount that is within the means of a household that may occupy low, very low, and extremely low-income housing. The department shall adopt policies for residential rental and homeownership housing, occupied by extremely low, very low, and low-income households, that specify the

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percentage of household income that may be spent on monthly housing costs, including utilities other than telephone, to qualify as affordable housing.

(2) "Affordable housing for all program" means the program authorized under this chapter, as administered by the department at the state level and by each county at the local level.

(3) "At risk of homelessness" means any low, very low, or extremely low-income individual or family residing in housing that is not affordable housing.

(4) "Authority" or "housing authority" means any of the public corporations created in RCW 35.82.030.

(5) "County" means a county government in the state of Washington or, except under RCW 36.22.178 (as recodified by this act), a city government or collaborative of city governments within that county if (a) the county government declines to participate in the affordable housing program and (b) as described under section 8 of this act, a city or collaborative of city governments elects to participate in the program.

(6) "County affordable housing for all plan" or "county plan" means the plan developed by each county with the goal of ensuring that every household in the county has a decent, appropriate, and affordable home in a healthy, safe environment by 2020.

(7) "County affordable housing task force" means a county committee, as described in section 6 of this act, created to prepare and recommend to its county legislative authority a county affordable housing for all plan, and also to recommend expenditures of the funds from the affordable housing for all program surcharge in RCW 36.22.178 (as recodified by this act) and all other sources directed to the county's affordable housing for all program.

(8) "Department" means the department of community, trade, and economic development.

(9) "Director" means the director of the department of community, trade, and economic development.

(10) "Eligible organizations" means eligible organizations as described in RCW 43.185.060.

(11) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than thirty percent of the median family income, adjusted for household size for the county where the project is located.

(12) "First-time home buyer" means an individual or his or her spouse who have not owned a home during the three-year period prior to purchase of a home.

(13) "Local government" means a county or city government in the state of Washington or, except under RCW 36.22.178 (as recodified by this act), a city government or collaborative of city governments within that county if (a) the county government declines to participate in the affordable housing program and (b) as described under section 8 of this act, a city or collaborative of city governments elects to participate in the program.

(14) "Low-income household," for the purposes of the affordable housing for all program, means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of the median household income, adjusted for household size for the county where the project is located.

(15) "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 extremely low-income, very low-income, low-income, or moderate-income households and special needs populations.

(16) "Performance evaluation" means the process of evaluating the performance by established objective, measurable criteria according to the achievement of outlined goals, measures, targets, standards, or other outcomes using a ranked scorecard from highest to lowest performance which employs a scale of one to one hundred, one hundred being the optimal score.

(17) "Performance measurement" means the process of comparing specific measures of success with ultimate and interim goals.

(18) "Quality management program" means a nationally recognized program using criteria similar or equivalent to the Baldridge criteria. Beginning in 2010, all local governments receiving over five hundred thousand dollars a year during the previous calendar year from: State housing-related funding sources, including the Washington housing trust fund; the ending homelessness program surcharges in RCW 36.22.179 and 36.22.1791 (as recodified by this act); and any surcharges in chapter 43.185C RCW and the surcharges in RCW 36.22.178 (as recodified by this act), shall apply to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system, once every three years beginning by January 1, 2011.

(19) "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, cities, towns, or counties in connection with strategies under section 105(b)(4) of the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.).

(20) "State affordable housing for all plan" or "state plan" means the plan developed by the department in collaboration with the affordable housing advisory board with the goal of ensuring that every household in Washington has a decent, appropriate, and affordable home in a healthy, safe environment by 2020.

(21) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than fifty percent of the median family income, adjusted for household size for the county where the project is located.

Sec. 5. RCW 43.185B.040 and 1993 c 478 s 12 are each amended to read as follows:

(1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020 (as recodified by this act), prepare and ((~~from time to time amend a five-year~~)) annually update a state affordable housing ((~~advisory~~)) for all plan with an ultimate goal of achieving a decent, appropriate, and affordable home in a healthy, safe environment for every household in the state by 2020. The state plan must also incorporate the strategies, objectives, goals, and performance measures of all other housing-related state plans, including the state homeless housing strategic plan required under RCW 43.185C.040 and all state housing programs. The state affordable housing for all plan may be combined with the state homeless housing strategic plan required under RCW 43.185C.040 or any other existing state housing plan as long as the requirements of all of the plans to be merged are met.

(2) The purpose of the state affordable housing for all plan is to:

(a) Document the need for affordable housing in the state, including the need amongst households at risk of homelessness, and the extent to which that need is being met through public and private sector programs((~~, to~~));

(b) Outline the development of sound strategies and programs to provide affordable housing to all households;

(c) Establish, evaluate, and report upon performance measures, goals, and timelines that are determined by the department for the affordable housing for all program and the state and local affordable housing for all plans, as well as for all federal, state, and local housing programs and plans operated or coordinated by the department, including: (i) Federal block grant programs; (ii) the Washington housing trust fund; and (iii) all local surcharge funds collected with the purpose of addressing homelessness and affordable housing; and

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(d) Facilitate state and county government planning to meet the state affordable housing ((~~needs of the state, and to enable the development of sound strategies and programs for affordable housing~~)) for all goal.

((~~The information in the five-year housing advisory plan must include:~~

~~(a) An assessment of the state's housing market trends;~~

~~(b) An assessment of the housing needs for all economic segments of the state and special needs populations;~~

~~(c) An inventory of the supply and geographic distribution of affordable housing units made available through public and private sector programs;~~

~~(d) A status report on the degree of progress made by the public and private sector toward meeting the housing needs of the state;~~

~~(e) An identification of state and local regulatory barriers to affordable housing and proposed regulatory and administrative techniques designed to remove barriers to the development and placement of affordable housing; and~~

~~(f) Specific recommendations, policies, or proposals for meeting the affordable housing needs of the state.~~

~~(2)~~)) (3)(a) The department, in consultation with the affordable housing advisory board, shall develop recommendations for affordable housing for all program performance measures, short-term and long-term goals, and timelines, as well as information to be collected, analyzed, and reported upon in the state and local affordable housing for all plans. One performance measure must address the program's effectiveness in achieving the ultimate goal of a decent, appropriate, and affordable home in a healthy, safe environment for every household in the state by 2020. Another specific performance measure must be to ensure that the rate of growth in the overall price of housing for each economic segment is less than that of the overall growth in wages for each economic segment. The department shall present its recommendations for additional performance measures to the appropriate committees of the legislature by December 31, 2008.

(b) Performance measures and other required plan components must be reviewed annually by the department after soliciting feedback from the affordable housing advisory board, appropriate committees of the legislature, and all county affordable housing for all task forces.

(c) The department may determine a timeline to implement and measure each performance measure for the state and county affordable housing for all programs, except that the state and all counties participating in the affordable housing for all program must implement and respond to all performance measures by January 1, 2011, unless the department determines that a performance measure is not applicable to a specific county based on parameters and thresholds established by the department.

(4) The ((~~five-year~~)) state affordable housing ((~~advisory~~)) for all plan required under ((~~subsection (1) of~~)) this section must be submitted to the appropriate committees of the legislature on or before ((~~February 1, 1994~~)) January 15, 2010, and subsequent updated plans must be submitted ((~~every five years~~)) by January 15th each year thereafter.

((~~(b) Each February 1st, beginning February 1, 1995, the department shall submit an annual progress report, to the legislature, detailing the extent to which the state's affordable housing needs were met during the preceding year and recommendations for meeting those needs~~))

(5) To guide counties in preparation of county affordable housing for all plans required under section 7 of this act, the department shall issue, by December 31, 2009, guidelines for preparing county plans consistent with this chapter. County plans must include, at a minimum, the same information reporting and analysis on a local level and the same performance measures as the state plan.

(6) Each year, beginning in 2010, the department shall:

(a) Summarize key information from county plans, including a summary of local city and county housing program activities and a summary of legislative recommendations;

(b) Conduct annual performance evaluations of county plans; and

(c) Conduct annual performance evaluations of all counties according to their performance in achieving affordable housing goals stated in their plans.

(7) The department shall include a summary of county affordable housing for all plans and the results of performance evaluations in the state affordable housing for all plan beginning in 2010.

(8) Based on changes to the general population and in the housing market, the department may revise the performance measures and goals of the state affordable housing for all plan and set goals for years following December 31, 2020.

NEW SECTION. **Sec. 6.** Each county shall convene a county affordable housing task force. The task force must be a committee, made up of volunteers, created to prepare and recommend to the county legislative authority a county affordable housing for all plan and also to recommend appropriate expenditures of the affordable housing for all program funds provided for in RCW 36.22.178 (as recodified by this act) and any other sources directed to the county program. The county affordable housing task force must include a representative of the county, a representative from the city with the highest population in the county, a representative from all other cities in the county with a population greater than fifty thousand, a member representing beneficiaries of affordable housing programs, other members as may be required to maintain eligibility for federal funding related to housing programs and services, and a representative from both a private nonprofit organization and a private for-profit organization with experience in very low-income housing. The task force may be the same as the homeless housing task force created in RCW 43.185C.160 or the same as another existing task force or other formal committee that meets the requirements of this section.

NEW SECTION. **Sec. 7.** (1) Each county shall direct its affordable housing task force to prepare and recommend to its county legislative authority a county affordable housing for all plan for its jurisdictional area. Each county shall adopt a county plan by June 30, 2010, and update the plan annually by June 30th thereafter. All plans must be forwarded to the department by the date of adoption. County affordable housing for all plans may be combined with the local homeless housing plans required under RCW 43.185C.040, county comprehensive plans required under RCW 36.70A.040, or any other existing plan addressing housing within a county as long as the requirements of all of the plans to be merged are met. For counties required or choosing to plan under RCW 36.70A.040, county affordable housing for all plans must be consistent with the housing elements of comprehensive plans described in RCW 36.70A.070(2). County plans must also be consistent with any existing local homeless housing plan required in RCW 43.185C.050.

(2) County affordable housing for all plans must be primarily focused on (a) ensuring that every household, including those households at risk of homelessness, in the county jurisdictional area has a decent, appropriate, and affordable home in a healthy, safe environment by 2020 with a priority placed on achieving this goal for low-income households and (b) increasing the percentage of households, who receive assistance from the transitional housing operating and rent program created in section 43 of this act, who ultimately are able to access affordable housing without government assistance. County affordable housing for all plans must include:

(i) At a minimum, the same information, analysis, and performance measures as the state affordable housing for all plan, including information and performance measurement data, where available, on state supported housing programs and all

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city and county housing programs, including local housing-related levy initiatives, housing-related tax exemption programs, and federally funded programs operated or coordinated by local governments;

(ii) Information on the uses of the affordable housing for all surcharge as required in RCW 36.22.178(4) (as recodified by this act);

(iii) Information on the activities and accomplishments of the transitional housing operating and rent program, as required in section 43 of this act;

(iv) Timelines for the accomplishment of interim goals and targets, and for the acquisition of projected financing that is appropriate for outlined goals and targets;

(v) An identification of challenges to reaching the affordable housing for all goal;

(vi) A total estimated amount of funds needed to reach the local affordable housing for all goal and an identification of potential funding sources; and

(vii) State legislative recommendations to enable the county to achieve its affordable housing for all goals. Legislative recommendations must be specific and, if necessary, include an estimated amount of funding required and suggestions of an appropriate funding source.

NEW SECTION. **Sec. 8.** (1) Any county may decline to participate in the affordable housing for all program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution must also be transmitted to the county auditor and treasurer. Counties that decline to participate shall not be required to establish an affordable housing task force or to create a county affordable housing for all plan. Counties declining to participate in the affordable housing for all program shall continue to be eligible to receive funding through the transitional housing operating and rent program created in section 43 of this act. Counties declining to participate in the affordable housing for all program shall also continue to collect and utilize the affordable housing for all surcharge for the purposes described in RCW 36.22.178 (as recodified by this act); however, such counties shall not be allocated any additional affordable housing for all program funding that is specifically provided for program planning and administrative purposes. Counties may opt back into the affordable housing for all program authorized by this chapter at a later date through a process and timeline to be determined by the department.

(2) If a county declines to participate in the affordable housing for all program authorized in this chapter, a city or formally organized collaborative of cities within that county may forward a resolution to the department stating its intention and willingness to operate an affordable housing for all program within its jurisdictional limits. The department must establish procedures to choose amongst cities or collaboratives of cities in the event that more than one city or collaborative of cities express an interest in participating in the program. Participating cities or collaboratives of cities must fulfill the same requirements as counties participating in the affordable housing for all program.

NEW SECTION. **Sec. 9.** A county may subcontract with any other county, city, town, housing authority, community action agency, or other nonprofit organization for the execution of programs contributing to the affordable housing for all goal. All subcontracts must be: Consistent with the county affordable housing for all plan adopted by the legislative authority of the county; time limited; and filed with the department, and must have specific performance terms as specified by the county. County governments must strongly encourage each subcontractor under the affordable housing for all program to apply to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system. This authority to subcontract with other entities does not affect participating counties' ultimate responsibility for meeting the requirements of the affordable housing for all program.

NEW SECTION. **Sec. 10.** The department shall contract with two statewide organizations addressing affordable housing issues or homeless issues, or both, to create comprehensive independent statewide affordable housing for all plans consistent with the goals and performance measures of the state and local affordable housing for all plans as described in this chapter. Recipient organizations must present their affordable housing for all plans to the department and the appropriate committees of the legislature within one year following the receipt of contract funds.

Sec. 11. RCW 36.22.178 and 2007 c 427 s 1 are each amended to read as follows:

The surcharge provided for in this section shall be named the affordable housing for all surcharge.

(1) Except as provided in subsection (3) of this section, a surcharge of ten dollars per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law. The county may retain up to five percent of these funds collected solely for the collection, administration, and local distribution of these funds. Of the remaining funds, forty percent of the revenue generated through this surcharge will be transmitted monthly to the state treasurer who will deposit the funds into the affordable housing for all account created in RCW 43.185C.190. The department of community, trade, and economic development must use these funds to provide housing and shelter for extremely low-income households, including but not limited to grants for building operation and maintenance costs of housing projects or units within housing projects that are affordable to extremely low-income households with incomes at or below thirty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses.

(2) All of the remaining funds generated by this surcharge will be retained by the county and be deposited into a fund that must be used by the county and its cities and towns for eligible housing activities as described in this subsection that serve very low-income households with incomes at or below fifty percent of the area median income. The portion of the surcharge retained by a county shall be allocated to eligible housing activities that serve extremely low and very low- income households in the county and the cities within a county according to an interlocal agreement between the county and the cities within the county consistent with countywide and local housing needs and policies. A priority must be given to eligible housing activities that serve extremely low-income households with incomes at or below thirty percent of the area median income. Eligible housing activities to be funded by these county funds are limited to:

(a) Acquisition, construction, or rehabilitation of housing projects or units within housing projects that are affordable to very low-income households with incomes at or below fifty percent of the area median income, including units for homeownership, rental units, seasonal and permanent farm worker housing units, and single room occupancy units;

(b) Supporting building operation and maintenance costs of housing projects or units within housing projects eligible to receive housing trust funds, that are affordable to very low-income households with incomes at or below fifty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses;

(c) Rental assistance vouchers for housing units that are affordable to very low-income households with incomes at or below fifty percent of the area median income, to be administered by a local public housing authority or other local organization that has an existing rental assistance voucher program, consistent with or similar to the United States department of housing and urban development's section 8 rental assistance voucher program standards; and

(d) Operating costs for emergency shelters and licensed overnight youth shelters.

(3) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

(4) All counties shall report at least annually by May 1st upon receipts and expenditures of the affordable housing for all surcharge funds created in this section to the department. The department may require more frequent reports. The report must include the amount of funding generated by the surcharge, the total amount of funding distributed to date, the amount of funding allocated to each eligible housing activity, a description of each eligible housing activity funded, including information on the income or wage level and numbers of extremely low, very low, and low-income households the eligible housing activity is intended to serve, and the outcome or anticipated outcome of each eligible housing activity.

NEW SECTION. **Sec. 12.** This chapter does not require either the department or any local government to expend any funds to accomplish the goals of this chapter other than the revenues authorized in this act and other revenue that may be appropriated by the legislature for these purposes. However, neither the department nor any local government may use any funds authorized in this act to supplant or reduce any existing expenditures of public money to address the affordable housing shortage.

Sec. 13. RCW 43.185A.100 and 2006 c 349 s 11 are each amended to read as follows:

The department((~~,~~)) shall collaborate with the housing finance commission, the affordable housing advisory board, and all local governments, housing authorities, and other ((~~nonprofits~~)) eligible organizations receiving state housing funds, affordable housing for all funds, home security funds, or financing through the housing finance commission ((~~shall, by December 31, 2006, and annually thereafter, review current housing reporting requirements related to housing programs and services and give~~)) to include in the state affordable housing for all plan, by December 31, 2009, recommendations, where possible:

(1) To streamline and simplify all housing planning, application, and reporting requirements ((~~to the department of community, trade, and economic development, which will compile and present the recommendations annually to the legislature. The entities listed in this section shall also give recommendations for additional~~)); and

(2) For legislative actions that could promote the affordable housing for all goal and the state goal to end homelessness.

Sec. 14. RCW 43.185.070 and 2005 c 518 s 1802 and 2005 c 219 s 2 are each reenacted and amended to read as follows:

(1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department. Administrative costs paid out of the housing trust fund may not exceed five percent of annual revenues available for distribution to housing trust fund projects. In awarding funds under this chapter, the department shall provide for a geographic distribution on a statewide basis.

(2) The department shall give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities shall be evaluated under subsection (3) of this section. Second priority shall be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities shall be evaluated by some or all of the criteria under subsection (3) of this section, and similar projects and activities shall be evaluated under the same criteria.

(3) The department shall give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities shall be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) The applicant has committed to quality improvement and submitted an application to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system within the previous three years;

(i) Projects which demonstrate serving the greatest need;

((~~(i)~~)) (j) Projects that provide housing for persons and families with the lowest incomes;

((~~(j)~~)) (k) Projects that provide housing for persons at risk of homelessness;

(l) Projects serving special needs populations which are under statutory mandate to develop community housing;

((~~(k)~~)) (m) Project location and access to employment centers in the region or area;

((~~(l)~~)) (n) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020; and

((~~(m)~~)) (o) Project location and access to available public transportation services.

(4) The department shall only approve applications for projects for ((~~mentally ill~~)) persons with mental illness that are consistent with a regional support network six-year capital and operating plan.

NEW SECTION. **Sec. 15.** The office of the insurance commissioner, in collaboration with the department of community, trade, and economic development and, when necessary, in consultation with the office of financial management and the office of the attorney general, must, by December 1, 2008, present specific recommendations for strategies to reduce construction liability and earthquake insurance costs for affordable housing projects funded by the Washington housing trust fund under chapters 43.185 and 43.185A RCW, with a specific emphasis on identifying strategies to reduce construction liability insurance costs, to the appropriate committees of the legislature. Recommendations must include any changes to existing statutory or regulatory language necessary for the state or for eligible organizations with affordable housing projects funded by the housing trust fund to pursue recommended strategies.

NEW SECTION. **Sec. 16.** A new section is added to chapter 43.185 RCW to read as follows:

Affordable housing developments receiving financing by the Washington housing trust fund under this chapter and chapter 43.185A RCW that were not acquired by eminent domain are

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exempt from the requirements of and rules adopted for chapter 8.26 RCW. All projects receiving financing from the housing trust fund must comply with any relocation standards and requirements and real property acquisition policies established by the department as a condition of housing trust fund assistance.

NEW SECTION. **Sec. 17.** A new section is added to chapter 43.185 RCW to read as follows:

(1) The housing communities program is created within the department to provide technical assistance and organizational capacity building programs to private, community-based nonprofit organizations that primarily serve communities of color or multilingual communities. The housing communities program must provide organizational training and technical assistance on housing development issues, including asset management, resource acquisition, and other general housing development topics, with the goal of assisting nonprofit organizations to add affordable housing development into their organizational missions and workplans, or expand their current affordable housing programs to further meet the needs of their communities.

(2) The department shall contract with two or more experienced housing nonprofit organizations that have the capacity to implement the housing communities program throughout the state.

NEW SECTION. **Sec. 18.** A new section is added to chapter 43.185 RCW to read as follows:

(1) The housing infrastructure program is created in the department to provide loans for public infrastructure that supports affordable rental housing or affordable owner-occupied housing.

(2) The department is authorized to make direct loans to eligible organizations for the cost of public works projects that support affordable rental housing or affordable owner-occupied housing, including the planning, construction, repair, reconstruction, replacement, rehabilitation, or improvement of sidewalks, streets and roads, bridges, power utilities, water systems, storm and sanitary sewage systems, and solid waste facilities. The department may also provide loans for the acquisition of real property when the acquisition is directly related to the development of public works projects for affordable rental or owner-occupied housing.

(3) Loan interest rates shall not exceed one-half of one percent per annum. The department must provide reasonable terms and conditions for repayment of loans, including partial forgiveness of loan principal and interest payments.

(4) The department shall conduct a statewide request for public works project applications and shall establish a competitive process for loan awards. The department shall review and prioritize proposals in consultation with the public works board, the community economic revitalization board, and the transportation improvement board. The following criteria must be used in the evaluation and ranking of public works project applications:

(a) The public works projects must support affordable rental housing or affordable owner-occupied housing; and

(b) The public works projects must demonstrate convincing evidence that (i) additional residential or mixed-use development will occur in an urban growth area designated under RCW 36.70A.110; (ii) the proposed mixed-use residential development is within one-half mile of a public transportation passenger terminal or major transit passenger stop; or (iii) that either moderate or high-density housing developments, or both, will be constructed.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Affordable owner-occupied housing" means housing affordable to and occupied by households with incomes not exceeding one hundred fifteen percent of the median income for housing located outside of high-cost areas or one hundred fifty percent of the median income for housing located within high-cost areas.

(b) "Affordable rental housing" means rental housing units affordable to and occupied by households with incomes not exceeding eighty percent of the median income for housing located outside of high-cost areas, or equal to the median income for housing located within high-cost areas.

(c)"High-cost area" means a county where the third quarter median house price for the previous year, as reported by the Washington center for real estate research at Washington State University, is equal to or greater than one hundred thirty percent of the statewide median house price published during the same time period.

NEW SECTION. **Sec. 19.** A new section is added to chapter 43.185 RCW to read as follows:

The affordable housing infrastructure account is created in the state treasury. All receipts from appropriations made to the account, repayments of loans made under section 18 of this act, and other sources identified by the legislature must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes identified in section 18 of this act.

Sec. 20. RCW 43.185C.005 and 2005 c 484 s 1 are each amended to read as follows:

Despite laudable efforts by all levels of government, private individuals, nonprofit organizations, and charitable foundations to end homelessness, the number of homeless persons and persons at risk of homelessness in Washington is unacceptably high. The state's homeless population, furthermore, includes a large number of families with children, youth, and employed persons. The legislature finds that the fiscal and societal costs of homelessness are high for both the public and private sectors, and that ending homelessness ((~~should~~)) must be a goal for state and local government.

The legislature finds that there are many causes of homelessness, including a shortage of affordable housing; a shortage of family-wage jobs which undermines housing affordability; a lack of an accessible and affordable health care system available to all who suffer from physical and mental illnesses and chemical and alcohol dependency; domestic violence; ((~~and~~)) a lack of education and job skills necessary to acquire adequate wage jobs in the economy of the twenty-first century; inadequate availability of services for citizens with mental disorders, chemical dependency disorders, or developmental disabilities living in the community; and the difficulties faced by formerly institutionalized persons in reintegrating to society and finding stable employment and housing.

The support and commitment of all sectors of the statewide community is critical to the chances of success in ending homelessness in Washington. While the provision of housing and housing-related services to the homeless should be administered at the local level to best address specific community needs, the legislature also recognizes the need for the state to play a primary coordinating, supporting, ((~~and~~)) monitoring, and evaluating role. There must be a clear assignment of responsibilities and a clear statement of achievable and quantifiable goals. Systematic statewide data collection on ((~~homelessness~~)) homeless individuals in Washington must be a critical component of such a program enabling the state to work with local governments not only to count all homeless people in the state, but to record and manage information about homeless persons ((~~and~~)) in order to assist them in finding housing and other supportive services that can help them, when possible, achieve the highest degree of self-sufficiency and economic independence that is appropriate given their specific abilities and situations.

The systematic collection and rigorous evaluation of homeless data, a nationwide search for and implementation through adequate resource allocation of best practices, and the systematic measurement of progress toward interim goals and

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the ultimate goal of ending homelessness are all necessary components of a statewide effort to end homelessness in Washington by ((July 1, 2015)) December 31, 2018.

Sec. 21. 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.

(2) "Director" means the director of the department of community, trade, and economic development.

(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" or "census" means ((an annual)) a statewide census conducted at least annually 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)) information about 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 (as recodified by this act), RCW 36.22.1791 (as recodified by this act), and all other sources directed to the homeless housing and assistance program.

(6) "((Homeless housing)) Ending homelessness grant program" means the ((vehicle by)) program established in RCW 43.185C.070, 43.185C.080, and 43.185C.090 under 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, and collecting data and information 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)) jurisdiction.

(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)) ending homelessness task force" means a voluntary local committee created under RCW 43.185C.160 to ((advise a local government on the creation of)) develop a local ((homeless housing)) ending homelessness plan and participate in a local ((homeless housing)) ending homelessness 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; (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) "Performance evaluation" means the process of evaluating performance by established criteria according to the achievement of outlined goals, measures, targets, standards, or other outcomes, using a ranked scorecard from highest to lowest performance that employs a scale of one to one hundred, one hundred being the optimal score.

(14) "Quality management program" means a nationally recognized program using criteria similar or equivalent to the Baldridge criteria. Beginning in 2010, all local governments receiving over five hundred thousand dollars a year during the previous calendar year from: State housing-related funding sources, including the Washington housing trust fund; the ending homelessness program surcharges in RCW 36.22.179 and 36.22.1791 (as recodified by this act); and any surcharges in this chapter and the surcharges in RCW 36.22.178 (as recodified by this act), shall apply to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system, once every three years beginning by January 1, 2011.

(15) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(((14))) (16) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(((15) "Homeless housing)) (17) "Ending homelessness 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)) (18) "Local ending homelessness plan" means the ((ten-year)) plan developed by the ((county or other)) local government to address ((housing for homeless persons)) ending homelessness.

(((17) "Homeless housing)) (19) "State ending homelessness strategic plan" means the ((ten-year)) plan developed by the department, in consultation with the interagency council on homelessness, the state advisory council on homelessness, and the affordable housing advisory board, to end homelessness.

(((18))) (20) "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.

(21) "Good family wage job" means a job that pays at or above one of the two self-sufficiency income standards established under section 36 of this act which for an individual means enough income to support one adult individual, and for a family means enough income to support two adult individuals, one preschool-aged child, and one school-aged child.

(22) "Unsheltered homeless" means a homeless individual or homeless individuals living outside or in a building not intended for human habitation or in which the individual or individuals have no legal right to occupy.

(23) "At risk of homelessness" means any low, very low, or extremely low-income individual or family residing in housing that is not affordable housing.

(24) "Transitional housing operating and rent program" means the program created in section 43 of this act to assist homeless individuals and families and individuals and families at risk of homelessness to secure and retain safe, decent, and affordable housing.

Sec. 22. RCW 43.185C.020 and 2005 c 484 s 5 are each amended to read as follows:

There is created within the department the ((homeless housing)) ending homelessness program to develop and ((coordinate)) implement a statewide ending homelessness strategic plan ((aimed at housing homeless persons)), coordinate and monitor local government ending homelessness plans and

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programs, and implement and manage an ending homelessness grant program. The ending homelessness program has an established short-term goal of reducing the homeless population statewide and in each county by seventy percent by July 1, 2015, and an ultimate goal of ending homelessness by December 31, 2018. The ending homelessness program ((shall be)) is developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020 (as recodified by this act).

Sec. 23. RCW 43.185C.040 and 2005 c 484 s 7 are each amended to read as follows:

(1) ((Six months after the first Washington homeless census,)) The department shall, in consultation with the interagency council on homelessness, the state advisory council on homelessness, and the affordable housing advisory board, prepare and ((publish a ten-year homeless housing)) annually update a state ending homelessness strategic plan which ((shall)) must outline statewide goals and performance measures ((and shall be coordinated with the plan for homeless families with children required under RCW 43.63A.650. To guide local governments in preparation of their first local homeless housing plans due December 31, 2005, the department shall issue by October 15, 2005, temporary guidelines consistent with this chapter and including the best available data on each community's homeless population)) to meet the needs of all homeless populations, including chronic homeless, unsheltered homeless, short-term homeless, families, individuals, and youth, as well as to meet the needs of individuals and families at risk of homelessness. Local governments' ((ten-year homeless housing)) local ending homelessness plans ((shall not)) must include all of the performance measures included in the state ending homelessness strategic plan and must be substantially ((inconsistent)) consistent with the goals and program recommendations of ((the temporary guidelines and, when amended after 2005,)) the state ending homelessness strategic plan.

(2)(a) Program outcomes and performance measures and goals ((shall)) must be created by the department ((and reflected)) in consultation with the interagency council on homelessness and a task force established by the department consisting of the committee chairs of the appropriate committees of the legislature, representatives appointed by the director from a minimum of five local ending homelessness task forces representing both urban and rural areas and communities east and west of the Cascade mountains, and a representative from a statewide membership organization that advocates for ending homelessness. All performance measures must have targets and timelines. The task force must also produce guidelines for local governments regarding methods, techniques, and data suggested to measure each performance measure. Performance measures, yearly targets, and corresponding measurement guidelines must be established by December 31, 2008, and must be reviewed annually by the department and the interagency council on homelessness after soliciting feedback from all local ending homelessness task forces. Performance measures must be included in the department's ((homeless housing)) state ending homelessness strategic plan ((as well as)) and all local ending homelessness plans.

(b) The department may determine a timeline for implementation and measurement of each performance measure for the state and local ending homelessness plans, except that the state and all local governments must implement and respond to all performance measures by December 31, 2010, unless the department finds that a performance measure is not applicable to a specific local area according to parameters and thresholds established by the department.

(c) Performance measures must be created, at a minimum, to gauge the success of the state and each local government in the following areas:

(i) The cost of ending homelessness in comparison with available and committed resources;

(ii) The total capital and service dollars required statewide and by county to meet the two goals outlined in RCW 43.185C.020, the assessment of which must include a determination of the current shortfall of funds as well as recommendations to reduce the total amount of funds determined to be needed to meet the goals;

(iii) The self-sufficiency of persons in Washington;

(iv) The achievement of an appropriate level of self-sufficiency for homeless individuals;

(v) The quality and completeness of the Washington homeless client management information system database;

(vi) The quality of the performance management systems of state agencies, local governments, and local government subcontractors executing programs, as authorized by RCW 43.185C.080(1), that contribute to the overall goal of ending homelessness; and

(vii) The quality of local ending homelessness plans.

Performance measurements are reported upon by city and county geography, including demographics with yearly or more frequent targets.

(3) Interim goals against which state and local governments' performance may be measured must also be described and reported upon in the state ending homelessness strategic plan, including:

(a) ((By the end of year one, completion of the first census as described in RCW 43.185C.030;

(b))) By the end of each subsequent year, goals common to all state and local programs which are measurable and the achievement of which would move that community toward housing its homeless population; ((and

(c))) (b) By July 1, 2015, reduction of the homeless population statewide and in each county by ((fifty)) seventy percent; and

(c) By December 31, 2018, the reduction of the homeless population statewide and in each county by one hundred percent, representing the end of homelessness in Washington.

(((3))) (4) The department shall develop a consistent statewide data gathering instrument to monitor the performance of cities and counties receiving ending homelessness grants in order to determine compliance with the terms and conditions set forth in the ending homelessness grant application or required by the department.

(5) The department shall, in consultation with the interagency council on homelessness, the state advisory council on homelessness, and the affordable housing advisory board, report annually to the governor and the appropriate committees of the legislature ((an assessment of)) information about:

(a) All state programs addressing homeless housing and services;

(b) The state's performance in furthering the goals of the state ((ten-year homeless housing)) ending homelessness strategic plan; and

(c) The performance of each participating local government in creating and executing a local ((homeless housing)) ending homelessness plan ((which)) that meets the requirements of this chapter. ((The annual report may include performance measures such as:

(a) The reduction in the number of homeless individuals and families from the initial count of homeless persons;

(b) The number of new units available and affordable for homeless families by housing type;

(c) The number of homeless individuals identified who are not offered suitable housing within thirty days of their request or identification as homeless;

(d) The number of households at risk of losing housing who maintain it due to a preventive intervention;

(e) The transition time from homelessness to permanent housing;

(f) The cost per person housed at each level of the housing continuum;

~~(g) The ability to successfully collect data and report performance;~~

~~(h) The extent of collaboration and coordination among public bodies, as well as community stakeholders, and the level of community support and participation;~~

~~(i) The quality and safety of housing provided; and~~

~~(j) The effectiveness of outreach to homeless persons, and their satisfaction with the program.~~

~~(4)~~)) (6) The state plan must also include a response to each recommendation included in the local plans for policy changes to assist in ending homelessness and a summary of the recommendations to the legislature to streamline and simplify all homeless planning and reporting requirements.

(7) Based on the performance of local ((~~homeless housing~~)) ending homelessness programs in meeting their interim goals, on general population changes and on changes in the homeless population recorded in the ((~~annual~~)) census, the department may revise the performance measures and goals of the state ((~~homeless housing strategic plan~~)) ending homelessness plans, set goals for years following the initial ten-year period, and recommend changes in local governments' ending homelessness plans.

Sec. 24. RCW 43.185C.050 and 2005 c 484 s 8 are each amended to read as follows:

(1)(a)(i) Each local ((~~homeless housing~~)) ending homelessness task force shall prepare and recommend to its local government legislative authority a ((~~ten-year homeless housing~~)) local ending homelessness plan for its jurisdictional area ((~~which shall be not inconsistent~~)) that is consistent with the department's ((~~statewide temporary guidelines, for the December 31, 2005, plan, and thereafter the department's ten-year homeless housing~~)) state ending homelessness strategic plan and ((~~which shall be~~)) is aimed at eliminating homelessness, with a minimum goal of reducing homelessness by ((~~fifty~~)) seventy percent by July 1, 2015, and an ultimate goal of ending homelessness by December 31, 2018. ((~~The local government may amend the proposed local plan and shall adopt a plan by December 31, 2005. Performance in meeting the goals of this local plan shall be assessed annually in terms of the performance measures published by the department.~~)) Local governments must update their local ending homelessness plan annually on a schedule to be determined by the department.

(ii) Local plans must include specific strategic objectives and performance measures, consistent with the state plan, and must include corresponding action plans. Local plans must address identified strategies to meet the needs of all homeless populations, including chronic homeless, unsheltered homeless, short-term homeless, families, individuals, and youth, as well as to meet the needs of individuals and families at risk of homelessness. Local plans must specifically identify efforts to meet the needs of homeless students. Each local plan must include the total estimated cost of accomplishing the goals of the plan to reduce homelessness by seventy percent by July 1, 2015, and an ultimate goal of ending homelessness by December 31, 2018, and must include an accounting of total committed funds for this purpose.

(b)(i) The department must conduct an annual performance evaluation of each local plan by December 31st of each year beginning in 2008. The department must also conduct an annual performance evaluation of each local government's performance related to its local plan by December 31st of each year beginning in 2008. A local government's performance must be evaluated using, at a minimum, the performance measures outlined in RCW 43.185C.040(2).

(ii) In addition to the performance measures mandated in RCW 43.185C.040(2), local plans may include specific local performance measures adopted by the local government legislative authority((~~,~~)) and ((~~may~~)) must include recommendations for ((~~any~~)) state legislation needed to meet the state or local plan goals. The recommendations must be specific and must, if funding is required, include an estimated amount of funding required and suggestions for an appropriate funding source.

(2) Eligible activities under the local plans include:

(a) Rental and furnishing of dwelling units for the use of homeless persons;

(b) Costs of developing affordable housing for homeless persons, and services for formerly homeless individuals and families residing in transitional housing or permanent housing and still at risk of homelessness;

(c) Operating subsidies for transitional housing or permanent housing serving formerly homeless families or individuals;

(d) Services to prevent homelessness, such as emergency eviction prevention programs, including temporary rental subsidies to prevent homelessness;

(e) Temporary services to assist persons leaving state institutions and other state programs to prevent them from becoming or remaining homeless;

(f) Outreach services for homeless individuals and families;

(g) Development and management of local ((~~homeless~~)) ending homelessness plans, including homeless census data collection((~~;~~)) and information, identification of goals, performance measures, strategies, and costs, and evaluation of progress towards established goals;

(h) Rental vouchers payable to landlords for persons who are homeless or below thirty percent of the median income or in immediate danger of becoming homeless; ((~~and~~))

(i) Implementing a quality management program and applying to the Washington state quality award program for an independent assessment of quality management, accountability, and performance systems or applying to the full examination Washington state quality award program; and

(j) Other activities to reduce and prevent homelessness as identified for funding in the local plan.

Sec. 25. RCW 43.185C.070 and 2005 c 484 s 11 are each amended to read as follows:

(1) During each calendar year in which moneys from the ((~~homeless housing~~)) home security fund account are available for use by the department for the ((~~homeless housing~~)) ending homelessness grant program, the department shall announce to all Washington counties, participating cities, and through major media throughout the state, a grant application period of at least ninety days' duration. Grants may be awarded for programs directly related to addressing the root causes of homelessness, preventing homelessness, and collecting data and information on homeless individuals. Only a local government participating in the ending homelessness program is eligible to receive an ending homelessness grant. This announcement will be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds, less appropriate administrative costs of the department as described in RCW 36.22.179 (as recodified by this act).

(2) The department ((~~will~~)) shall develop, ((~~with advice and input from the affordable housing advisory board established in RCW 43.185B.020~~)) in consultation with the interagency council on homelessness, criteria to evaluate grant applications.

(3) The department may approve only those applications ((~~only if they~~)) that are consistent with the local and state ((~~homeless housing program strategic~~)) ending homelessness plans. The department may give preference to applications based on some or all of the following criteria:

(a) The total homeless population in the applicant local government service area, as reported by the most recent ((~~annual~~)) Washington homeless census;

(b) Current local expenditures to provide housing for the homeless and to address the underlying causes of homelessness as described in RCW 43.185C.005;

(c) Local government and private contributions pledged to the program in the form of matching funds, property, infrastructure improvements, and other contributions; and the

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degree of leveraging of other funds from local government or private sources for the program for which funds are being requested, to include recipient contributions to total project costs, including allied contributions from other sources such as professional, craft, and trade services, and lender interest rate subsidies;

(d) ((~~Construction projects or rehabilitation that will serve homeless individuals or families for a period of at least twenty-five years;~~

~~(e) Projects which demonstrate serving homeless populations with the greatest needs, including projects that serve special needs populations;~~

~~(f)~~)) The degree to which the applicant project represents a collaboration between local governments, nonprofit community-based organizations, local and state agencies, and the private sector((~~, especially through its integration with the coordinated and comprehensive plan for homeless families with children required under RCW 43.63A.650~~));

((~~(g)~~)) (e) The cooperation of the local government in the ((~~annual~~)) Washington homeless census ((~~project~~));

((~~(h)~~)) (f) The number of homeless censuses or other homeless counts conducted by the local government beyond the annual census requirement;

(g) The commitment of the local government and any subcontracting local governments, nonprofit organizations, and for-profit entities to employ a diverse work force and pay wages at or above the self-sufficiency standard;

(h) The commitment of the local government to apply to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system or apply to the full examination Washington state quality award program;

(i) The extent that a local government's subcontractors commit to apply to the Washington state quality award program for an independent assessment of their quality management, accountability, and performance systems or apply to the full examination Washington state quality award program;

(j) The extent, if any, that the local homeless population is disproportionate to the revenues collected under this chapter and RCW 36.22.178 and 36.22.179 (as recodified by this act); and

((~~(j)~~)) (k) Other elements shown by the applicant to be directly related to the goal and the department's state ending homelessness strategic plan.

Sec. 26. RCW 43.185C.080 and 2005 c 484 s 12 are each amended to read as follows:

(1) ((~~Only a local government is eligible to receive a homeless housing grant from the homeless housing account. Any city may assert responsibility for homeless housing within its borders if it so chooses, by forwarding a resolution to the legislative authority of the county stating its intention and its commitment to operate a separate homeless housing program. The city shall then receive a percentage of the surcharge assessed under RCW 36.22.179 equal to the percentage of the city's local portion of the real estate excise tax collected by the county. A participating city may also then apply separately for homeless housing program grants. A city choosing to operate a separate homeless housing program shall be responsible for complying with all of the same requirements as counties and shall adopt a local homeless housing plan meeting the requirements of this chapter for county local plans. However, the city may by resolution of its legislative authority accept the county's homeless housing task force as its own and based on that task force's recommendations adopt a homeless housing plan specific to the city.~~

~~(2)~~)) Local governments ((~~applying for homeless housing funds~~)) may subcontract with any other local government, housing authority, community action agency, or other nonprofit organization for the execution of programs contributing to the overall goal of ending homelessness within a defined service area. All subcontracts ((~~shall~~)) must be consistent with the local ((~~homeless housing~~)) ending homelessness plan adopted by the legislative authority of the local government, time limited, and filed with the department, and ((~~shall~~)) must have specific performance terms. Local governments must strongly encourage all subcontractors under the ending homelessness program to apply to the Washington state quality award program for an independent assessment of their quality management, accountability, and performance systems or apply to the full examination Washington state quality award program. While a local government has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the ((~~homeless housing~~)) ending homelessness program within its ((~~borders~~)) jurisdiction.

((~~(3)~~)) (2) A county may decline to participate in the program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution ((~~shall~~)) must also be transmitted to the county auditor and treasurer. If ((~~such a~~)) the resolution is adopted, all of the funds otherwise due to the county under RCW ((~~43.185C.060 shall~~)) 36.22.179 and 36.22.1791 (as recodified by this act), minus funds due to any city that has chosen to participate through the process established in subsection (3) of this section, must be remitted monthly to the state treasurer for deposit in the ((~~homeless housing~~)) home security fund account, without any reduction by the county for collecting or administering the funds. Upon receipt of the resolution, the department shall promptly begin to identify and contract with one or more entities eligible under this section to create and execute a local ((~~homeless housing~~)) ending homelessness plan for the county meeting the requirements of this chapter. The department shall expend all of the funds received from the county under this subsection to carry out the purposes of this chapter ((~~484, Laws of 2005~~)) in the county, ((~~provided that~~)) but the department may retain six percent of these funds to offset the cost of managing the county's program.

(3) Any city may assert responsibility for homeless housing within its borders, by forwarding a resolution to the legislative authority of the county stating its intention and its commitment to operate a separate ending homelessness program. A city choosing to operate a separate ending homelessness program receives a percentage of the surcharges assessed under RCW 36.22.179 and 36.22.1791 (as recodified by this act) equal to the percentage of the city's local portion of the real estate excise tax collected by the county. A participating city may also then apply separately for ending homelessness grants. A city choosing to operate a separate ending homelessness program must comply with all of the same requirements as counties and shall adopt a local ending homelessness plan meeting the requirements of this chapter for local ending homelessness plans.

(4) A resolution by the county declining to participate in the program ((~~shall have~~)) has no effect on the ((~~ability~~)) authority of each city in the county to assert its right to manage its own program under this chapter, and the county shall monthly transmit to the city the funds due under ((~~this chapter~~)) RCW 36.22.179 and 36.22.1791 (as recodified by this act).

Sec. 27. RCW 43.185C.090 and 2005 c 484 s 13 are each amended to read as follows:

The department shall allocate ending homelessness grant moneys from the ((~~homeless housing~~)) home security fund account to finance in whole or in part programs and projects in approved local ((~~homeless housing~~)) ending homelessness plans ((~~to assist homeless individuals and families gain access to adequate housing, prevent at-risk individuals from becoming homeless, address the root causes of homelessness, track and report on homeless-related data, and facilitate the movement of homeless or formerly homeless individuals along the housing continuum toward more stable and independent housing~~)) for programs directly related to addressing the root causes of homelessness, preventing homelessness, and collecting data and information on homeless individuals. The department may issue

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criteria or guidelines to guide local governments in the application process.

Sec. 28. RCW 43.185C.100 and 2005 c 484 s 14 are each amended to read as follows:

The department shall provide technical assistance to any participating local government that requests such assistance. Technical assistance activities may include:

(1) Assisting local governments to identify appropriate parties to participate on local ((~~homeless housing~~)) ending homelessness task forces;

(2) Assisting local governments to identify appropriate service providers with which the local governments may subcontract for service provision and development activities, when necessary;

(3) Assisting local governments to implement or expand homeless census programs to meet ((~~homeless housing~~)) ending homelessness program requirements;

(4) Assisting local governments in the local implementation and updating of the homeless client management information system as required in RCW 43.185C.180;

(5) Assisting local governments to apply to the Washington state quality award program for an independent assessment of their quality management, accountability, and performance systems or apply to the full examination Washington state quality award program;

(6) Assisting local governments to strongly encourage all subcontractors to apply to the Washington state quality award program for an independent assessment of their quality management, accountability, and performance systems or apply to the full examination Washington state quality award program;

(7) Assisting local governments to create quality ending homelessness plans;

(8) Assisting in the identification of "best practices" from other areas;

((~~(5)~~)) (9) Assisting in identifying additional funding sources for specific projects; and

((~~(6)~~)) (10) Training local government and subcontractor staff, including quality management training.

Sec. 29. RCW 43.185C.130 and 2005 c 484 s 17 are each amended to read as follows:

The department shall ensure that the state's interest is protected upon the development, use, sale, or change of use of projects constructed, acquired, or financed in whole or in part through the ((~~homeless housing~~)) ending homelessness grant program. These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project, or (2) requiring a lump sum repayment of the grant upon the sale or change of use of the project.

Sec. 30. RCW 43.185C.160 and 2005 c 485 s 1 are each amended to read as follows:

(1) Each county shall create ((~~a homeless housing~~)) an ending homelessness task force to develop a ((~~ten-year homeless housing~~)) ending homelessness plan addressing short-term and long-term services and housing ((~~for homeless persons~~)) to prevent and reduce homelessness by seventy percent by July 1, 2015, and to achieve the ultimate goal of ending homelessness by December 31, 2018.

Membership on the task force may include representatives of the counties, cities, towns, housing authorities, civic and faith organizations, schools, community networks, human services providers, law enforcement personnel, criminal justice personnel, including prosecutors, probation officers, and jail administrators, substance abuse treatment providers, mental health care providers, emergency health care providers, businesses, at-large representatives of the community, and a homeless or formerly homeless individual.

In lieu of creating a new task force, a local government may designate an existing governmental or nonprofit body ((~~which~~)) that substantially conforms to this section and ((~~which~~)) includes at least one homeless or formerly homeless individual to serve as its homeless representative. As an alternative to a separate plan, two or more local governments may work in concert to develop and execute a joint ((~~homeless housing~~)) local ending homelessness plan, or to contract with another entity to do so according to the requirements of this chapter. While a local government has the authority to subcontract with other entities, the local government continues to maintain the ultimate responsibility for the ((~~homeless housing~~)) ending homelessness program within its borders.

((~~A county may decline to participate in the program authorized in this chapter by forwarding to the department a resolution adopted by the county legislative authority stating the intention not to participate. A copy of the resolution shall also be transmitted to the county auditor and treasurer. If a county declines to participate, the department shall create and execute a local homeless housing plan for the county meeting the requirements of this chapter.~~))

(2) In addition to developing a ((~~ten-year homeless housing~~)) local ending homelessness plan, each task force shall establish guidelines consistent with the statewide ((~~homeless housing~~)) ending homelessness strategic plan, as needed, for the following:

(a) Emergency shelters;

(b) Short-term housing needs;

(c) Temporary encampments;

(d) Rental voucher programs;

(e) Timely housing opportunities for unsheltered homeless;

(f) Supportive housing for chronically homeless persons; ((~~and~~

~~(c)~~)) (g) Long-term housing; and

(h) Prevention services.

Guidelines must include, when appropriate, standards for health and safety and notifying the public of proposed facilities to house the homeless.

(3) Each county((~~, including counties exempted from creating a new task force under subsection (1) of this section,~~)) shall report to the department of community, trade, and economic development ((~~such~~)) any information ((~~as may be~~)) needed to ensure compliance with this chapter.

Sec. 31. RCW 43.185C.900 and 2005 c 484 s 2 are each amended to read as follows:

This chapter may be known and cited as the ending homelessness ((~~housing and assistance~~)) act.

Sec. 32. RCW 36.22.179 and 2007 c 427 s 4 are each amended to read as follows:

(1) In addition to the surcharge authorized in RCW 36.22.178 (as recodified by this act), and except as provided in subsection (2) of this section, an additional surcharge of ten dollars shall be charged by the county auditor for each document recorded, which will be in addition to any other charge allowed by law. The funds collected pursuant to this section are to be distributed and used as follows:

(a) The auditor shall retain two percent for collection of the fee, and of the remainder shall remit sixty percent to the county to be deposited into a fund that must be used by the county and its cities and towns to accomplish the purposes of this chapter, six percent of which may be used by the county for administrative costs related to its ((~~homeless housing~~)) ending homelessness plan, and the remainder for programs which directly accomplish the goals of the county's local ((~~homeless housing~~)) ending homelessness plan, except that for each city in the county which elects as authorized in RCW 43.185C.080 to operate its own local ((~~homeless housing~~)) ending homelessness program, a percentage of the surcharge assessed under this section equal to the percentage of the city's local portion of the real estate excise tax collected by the county shall be transmitted at least quarterly to the city treasurer, without any deduction for county administrative costs, for use by the city for program costs which directly contribute to the goals of the city's local ((~~homeless housing~~)) ending homelessness plan; of the funds

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received by the city, it may use six percent for administrative costs for its ((~~homeless housing~~)) ending homelessness program.

(b) The auditor shall remit the remaining funds to the state treasurer for deposit in the home security fund account. The department may use twelve and one-half percent of this amount for administration of the program established in RCW 43.185C.020, including the costs of creating the statewide ((~~homeless housing~~)) ending homelessness strategic plan, measuring performance, providing technical assistance to local governments, and managing the ((~~homeless housing~~)) ending homelessness grant program. The remaining eighty-seven and one-half percent is to be used by the department to:

(i) Provide housing and shelter for homeless people including, but not limited to: Grants to operate, repair, and staff shelters; grants to operate transitional housing; partial payments for rental assistance; consolidated emergency assistance; overnight youth shelters; and emergency shelter assistance; and

(ii) Fund the ((~~homeless housing~~)) ending homelessness grant program.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

Sec. 33. RCW 36.22.1791 and 2007 c 427 s 5 are each amended to read as follows:

(1) In addition to the surcharges authorized in RCW 36.22.178 and 36.22.179 (as recodified by this act), and except as provided in subsection (2) of this section, the county auditor shall charge an additional surcharge of eight dollars for each document recorded, which is in addition to any other charge allowed by law. The funds collected under this section are to be distributed and used as follows:

(a) The auditor shall remit ninety percent to the county to be deposited into a fund six percent of which may be used by the county for administrative costs related to its ((~~homeless housing~~)) ending homelessness plan, and the remainder for programs that directly accomplish the goals of the county's local ((~~homeless housing~~)) ending homelessness plan, except that for each city in the county that elects, as authorized in RCW 43.185C.080, to operate its own ((~~homeless housing~~)) ending homelessness program, a percentage of the surcharge assessed under this section equal to the percentage of the city's local portion of the real estate excise tax collected by the county must be transmitted at least quarterly to the city treasurer for use by the city for program costs that directly contribute to the goals of the city's ((~~homeless housing~~)) ending homelessness plan.

(b) The auditor shall remit the remaining funds to the state treasurer for deposit in the home security fund account. The department may use the funds for administering the program established in RCW 43.185C.020, including the costs of creating and updating the statewide ((~~homeless housing~~)) ending homelessness strategic plan, measuring performance, providing technical assistance to local governments, and managing the ((~~homeless housing~~)) ending homelessness grant program. Remaining funds may also be used to:

(i) Provide housing and shelter for homeless people including, but not limited to: Grants to operate, repair, and staff shelters; grants to operate transitional housing; partial payments for rental assistance; consolidated emergency assistance; overnight youth shelters; and emergency shelter assistance; and

(ii) Fund the ((~~homeless housing~~)) ending homelessness grant program.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

Sec. 34. RCW 43.185C.170 and 2006 c 349 s 7 are each amended to read as follows:

(1) The interagency council on homelessness, as defined in RCW 43.185C.010, shall ((~~be convened not later than~~)) convene by August 31, 2006, and shall meet at least two times each year and report to the appropriate committees of the legislature annually by December 31st on its activities.

(2) The interagency council on homelessness shall work to create greater levels of interagency coordination and to coordinate state agency efforts with the efforts of state and local entities addressing homelessness.

(3) The interagency council on homelessness must respond to all state and local legislative and policy recommendations included in the state and local ending homelessness plans. The interagency council must annually present its strategy for addressing the issues raised to the appropriate committees of the legislature and must also include a report on the actions taken to date that address these issues.

(4) The interagency council shall seek to:

(a) Align homeless-related housing and supportive service policies among state agencies;

(b) Identify ways in which providing housing with appropriate services can contribute to cost savings for state agencies;

(c) Identify policies and actions that may contribute to homelessness or interfere with its reduction;

(d) Review and improve strategies for discharge from state institutions that contribute to homelessness;

(e) Recommend policies to either improve practices or align resources, or both, including those policies requested by the affordable housing advisory board or through state and local housing plans; and

(f) Ensure that the housing status of people served by state programs is collected in consistent formats available for analysis.

Sec. 35. RCW 43.185C.180 and 2006 c 349 s 8 are each amended to read as follows:

(1) In order to improve services for the homeless, the department, within amounts appropriated by the legislature for this specific purpose, shall implement the Washington homeless client management information system for the ongoing collection and updates of information about all homeless individuals in the state.

(2) Information about homeless individuals for the Washington homeless client management information system shall come from the Washington homeless census ((~~and~~)), from state agencies, and from community organizations providing services to homeless individuals and families. Personally identifying information about homeless individuals for the Washington homeless client management system may only be collected after having obtained informed, reasonably time limited written consent from the homeless individual to whom the information relates. Data collection ((~~shall~~)) must be done in a manner consistent with federally informed consent guidelines regarding human research which, at a minimum, require that individuals be informed about the expected duration of their participation, an explanation of whom to contact for answers to pertinent questions about the data collection and their rights regarding their personal identifying information, an explanation regarding whom to contact in the event of injury to the individual related to the homeless client survey, a description of any reasonably foreseeable risks to the homeless individual, and a statement describing the extent to which confidentiality of records identifying the individual will be maintained.

(3) The Washington homeless client management information system shall serve as an online information and referral system to enable local governments and providers to connect homeless persons in the database with available housing and other support services. Local governments shall develop a capacity for continuous case management, including independent living plans, when appropriate, to assist homeless persons.

(4) The information in the Washington homeless client management information system will also provide the department with the information to consolidate and analyze data about the extent and nature of homelessness in Washington state, giving emphasis to information about the extent and nature

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of homelessness in Washington state among families with children.

(5) The system may be merged with other data gathering and reporting systems and shall:

(a) Protect the right of privacy of individuals;

(b) Provide for consultation and collaboration with all relevant state agencies, including the department of social and health services, experts, and community organizations involved in the delivery of services to homeless persons; and

(c) Include related information held or gathered by other state agencies.

(6) Within amounts appropriated by the legislature, for this specific purpose, the department shall evaluate the information gathered and disseminate the analysis and the evaluation broadly, using appropriate computer networks as well as written reports.

(7) The Washington homeless client management information system ((~~shall~~)) must be implemented by December 31, 2009, and updated with new homeless client information at least ((~~annually~~)) twice each year.

NEW SECTION. **Sec. 36.** A new section is added to chapter 43.185C RCW to read as follows:

The department shall contract with the employment security department to annually establish two self-sufficiency income standards based upon the cost of living, including housing costs, which include mortgage or rent payments and utilities other than telephone, for each county in the state. The self-sufficiency income standards must be based upon the costs needed to support: (1) One adult individual; and (2) two adult individuals and one preschool-aged child and one school-aged child. These income standards will be translated into an equivalent hourly wage rate assuming one full-year, full-time earner for the self-sufficiency income standards for each county. The self-sufficiency income standards must be presented to the legislature by December 31, 2009. The employment security department must spend no more than one hundred ten thousand dollars in creating the initial self-sufficiency income standards and no more than fifty-five thousand dollars annually to update the standards. The employment security department shall deliver a report to the department and the appropriate committees of the legislature that details the number and percentage of individuals statewide and in each county who do not have a good family wage job and, as a result, earn less than the self-sufficiency income standards, as well as the number and percentage of individuals statewide and in each county who have a good family wage job and, as a result, earn an amount equivalent to or more than the self-sufficiency income standards.

Sec. 37. RCW 43.185B.030 and 1993 c 478 s 6 are each amended to read as follows:

The affordable housing advisory board shall:

(1) Analyze those solutions and programs that could begin to address the state's need for housing that is affordable for all economic segments of the state, and special needs populations, including but not limited to programs or proposals which provide for:

(a) Financing for the acquisition, rehabilitation, preservation, or construction of housing;

(b) Use of publicly owned land and buildings as sites for affordable housing;

(c) Coordination of state initiatives with federal initiatives and financing programs that are referenced in the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.), as amended, and development of an approved housing strategy as required in the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.), as amended;

(d) Identification and removal, where appropriate and not detrimental to the public health and safety, or environment, of state and local regulatory barriers to the development and placement of affordable housing;

(e) Stimulating public and private sector cooperation in the development of affordable housing; and

(f) Development of solutions and programs affecting housing, including the equitable geographic distribution of housing for all economic segments, as the advisory board deems necessary;

(2) Consider both homeownership and rental housing as viable options for the provision of housing. The advisory board shall give consideration to various types of residential construction and innovative housing options, including but not limited to manufactured housing;

(3) Review, evaluate, and make recommendations regarding existing and proposed housing programs and initiatives including but not limited to tax policies, land use policies, and financing programs. The advisory board shall provide recommendations to the director, along with the department's response in the annual housing report to the legislature required in RCW 43.185B.040 (as recodified by this act); and

(4) Prepare and submit to the director and to the legislature, by each December 1st, beginning December 1, 1993, a report ((~~detailing its~~)) that (a) details the board's findings and (b) discusses the measurable relationship between jobs paying less than the self-sufficiency standard, established under section 36 of this act, and housing affordability, and make specific program, legislative, and funding recommendations and any other recommendations it deems appropriate.

NEW SECTION. **Sec. 38.** A new section is added to chapter 43.185C RCW to read as follows:

The joint legislative audit and review committee shall conduct two performance audits of the ending homelessness program. The first audit must be conducted by December 31, 2010. The second audit must be conducted by December 31, 2014. Each audit must take no longer than six months or one hundred thousand dollars to complete.

Sec. 39. RCW 43.20A.790 and 1999 c 267 s 2 are each amended to read as follows:

(1) The department of social and health services shall collaborate with the department ((~~of community, trade, and economic development~~)) in the development of ((~~the~~)) a coordinated and comprehensive plan for homeless families with children ((~~required under RCW 43.63A.650, which designates the department of community, trade, and economic development as the state agency with primary responsibility for providing shelter and housing services to homeless families with children. In fulfilling its responsibilities to collaborate with the department of community, trade, and economic development pursuant to RCW 43.63A.650,~~)) that must be integrated into the state ending homelessness strategic plan created in RCW 43.185C.040. The department of social and health services shall develop, administer, supervise, and monitor its portion of the plan((~~. The department's portion of the plan shall~~)), which must contain at least the following elements:

(a) Coordination or linkage of services with shelter and housing;

(b) Accommodation and addressing the needs of homeless families in the design and administration of department programs;

(c) Participation of the department's local offices in the identification, assistance, and referral of homeless families; and

(d) Ongoing monitoring of the efficiency and effectiveness of the plan's design and implementation.

(2) The department shall include community organizations involved in the delivery of services to homeless families with children, and experts in the development and ongoing evaluation of the plan.

((~~(3) The duties under this section shall be implemented within amounts appropriated for that specific purpose by the legislature in the operating and capital budgets.~~))

Sec. 40. RCW 36.18.010 and 2007 c 523 s 2 are each amended to read as follows:

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County auditors or recording officers shall collect the following fees for their official services:

(1) For recording instruments, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

(2) For preparing and certifying copies, for the first page eight and one-half by fourteen inches or less, three dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

(3) For preparing noncertified copies, for each page eight and one-half by fourteen inches or less, one dollar;

(4) For administering an oath or taking an affidavit, with or without seal, two dollars;

(5) For issuing a marriage license, eight dollars, (this fee includes taking necessary affidavits, filing returns, indexing, and transmittal of a record of the marriage to the state registrar of vital statistics) plus an additional five-dollar fee for use and support of the prevention of child abuse and neglect activities to be transmitted monthly to the state treasurer and deposited in the state general fund plus an additional ten-dollar fee to be transmitted monthly to the state treasurer and deposited in the state general fund. The legislature intends to appropriate an amount at least equal to the revenue generated by this fee for the purposes of the displaced homemaker act, chapter 28B.04 RCW;

(6) For searching records per hour, eight dollars;

(7) For recording plats, fifty cents for each lot except cemetery plats for which the charge shall be twenty-five cents per lot; also one dollar for each acknowledgment, dedication, and description: PROVIDED, That there shall be a minimum fee of twenty-five dollars per plat;

(8) For recording of miscellaneous records not listed above, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

(9) For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170;

(10) For recording an emergency nonstandard document as provided in RCW 65.04.047, fifty dollars, in addition to all other applicable recording fees;

(11) For recording instruments, a two-dollar surcharge to be deposited into the Washington state heritage center account created in RCW 43.07.129;

(12) For recording instruments, a surcharge as provided in RCW 36.22.178 (as recodified by this act); ((~~and~~))

(13) For recording instruments, except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a surcharge as provided in RCW 36.22.179 (as recodified by this act); and

(14) For recording instruments, except for documents recording a birth, marriage, divorce, or death or any documents otherwise exempted from a recording fee under state law, a surcharge as provided in RCW 36.22.1791 (as recodified by this act).

Sec. 41. RCW 43.185C.150 and 2005 c 484 s 21 are each amended to read as follows:

This chapter does not require either the department or any local government to expend any funds to accomplish the goals of this chapter other than the revenues authorized in chapter 484, Laws of 2005 and the revenues authorized in RCW 36.22.1791 (as recodified by this act). However, neither the department nor any local government may use any funds authorized in chapter 484, Laws of 2005 or the revenues authorized in RCW 36.22.1791 (as recodified by this act) to supplant or reduce any existing expenditures of public money for the reduction or prevention of homelessness or services for homeless persons.

NEW SECTION. **Sec. 42.** The department of community, trade, and economic development shall contract with the Washington institute for public policy to conduct a study to determine the most effective, accurate, and comprehensive way for counties and the state of Washington to measure and evaluate the societal cost of homelessness. The department shall not spend more than one hundred thousand dollars on the study, and the results of the study must be presented to the appropriate committees of the legislature by June 30, 2009.

NEW SECTION. **Sec. 43.** (1) The transitional housing operating and rent program is created in the department to assist individuals and families who are homeless or who are at risk of becoming homeless to secure and retain safe, decent, and affordable housing. The department shall provide grants to eligible organizations, as described in RCW 43.185.060, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, which includes security or utility deposits, first and last month's rent assistance, and eligible moving expenses to be determined by the department;

(b) Case management services designed to assist program participants to secure and retain immediate housing and to transition into permanent housing and greater levels of self-sufficiency;

(c) Operating expenses of transitional housing facilities that serve homeless families with children; and

(d) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance through the transitional housing operating and rent program are:

(a) Families with children who are homeless or who are at risk of becoming homeless and who have household incomes at or below fifty percent of the median household income for their county;

(b) Families with children who are homeless or who are at risk of becoming homeless and who are receiving services under chapter 13.34 RCW;

(c) Individuals or families without children who are homeless or at risk of becoming homeless and who have household incomes at or below thirty percent of the median household income for their county;

(d) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who has a mental health or chemical dependency disorder; and

(e) Individuals or families who are homeless or who are at risk of becoming homeless and who have a household with an adult member who is an offender released from confinement within the past eighteen months.

(3) All program participants must be willing to create and actively participate in a housing stability plan for achieving permanent housing and greater levels of self-sufficiency.

(4) Data on all program participants must be entered into and tracked through the Washington homeless client management information system as described in RCW 43.185C.180. For eligible organizations serving victims of domestic violence or sexual assault, compliance with this subsection must be accomplished in accordance with 42 U.S.C. Sec. 11383 (a)(8).

(5) Beginning in 2011, each eligible organization receiving over five hundred thousand dollars during the previous calendar year from the transitional housing operating and rent program and from sources including: (a) State housing-related funding sources; (b) the affordable housing for all surcharge in RCW 36.22.178 (as recodified by this act); (c) the home security fund

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surcharges in RCW 36.22.179 and 36.22.1791 (as recodified by this act); and (d) any other surcharge imposed under chapter 36.22 or 43.185C RCW to fund homelessness programs or other housing programs, shall apply to the Washington state quality award program for an independent assessment of its quality management, accountability, and performance system, once every three years.

(6) The department may develop rules, requirements, procedures, and guidelines as necessary to implement and operate the transitional housing operating and rent program.

(7) The department shall produce an annual transitional housing operating and rent program report that must be included in the department's affordable housing for all plan as described in RCW 43.185B.040 (as recodified by this act). The report must include performance measures to be determined by the department that address, at a minimum, the following issue areas:

(a) The success of the program in helping program participants transition into permanent affordable housing and increase their levels of self-sufficiency;

(b) The financial performance of the program related to efficient program administration by the department and program operation by selected eligible organizations, including an analysis of the costs per program participant served;

(c) The quality, completeness, and timeliness of the information on program participants provided to the Washington homeless client management information system database; and

(d) The satisfaction of program participants in the assistance provided through the program.

NEW SECTION. **Sec. 44.** The transitional housing operating and rent account is created in the custody of the state treasurer. All receipts from sources directed to the transitional housing operating and rent program must be deposited into the account. Expenditures from the account may be used solely for the purpose of the transitional housing operating and rent program as described in section 43 of this act. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 45.** RCW 59.18.600 (Rental to offenders--Limitation on liability) and 2007 c 483 s 602 are each repealed.

NEW SECTION. **Sec. 46.** RCW 36.22.179, 36.22.1791, 43.20A.790, and 43.63A.650 are each recodified as sections in chapter 43.185C RCW.

NEW SECTION. **Sec. 47.** RCW 36.22.178, 43.185A.100, 43.185B.020, and 43.185B.040 are each recodified as sections in chapter 43.--- RCW (created in section 48 of this act).

NEW SECTION. **Sec. 48.** Sections 1 through 4, 6 through 10, 12, 43, and 44 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 49.** The code reviser shall alphabetize and renumber the definitions in RCW 43.185C.010.

NEW SECTION. **Sec. 50.** If specific funding for the purposes of sections 1 through 13, 43, and 44 of this act, referencing sections 1 through 13, 43, and 44 of this act by bill or chapter number and section number, is not provided by June 30, 2008, in the omnibus appropriations act, sections 1 through 13, 43, and 44 of this act are null and void."

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. 5959.

REMARKS BY THE PRESIDENT

President Owen: "Senator Honeyford before you do, as we're probably going to may have a few of these, the President would remind the members that the President allows brief explanations of your position on these matters and I'd appreciate it if you'd honor that. We do allow an argument on each side. Senator Honeyford, please."

POINT OF ORDER

Senator Honeyford: "Well, thank you Mr. President. The underlying bill is addressing one item: codifying the traditional housing operation and rent program designed to assist homeless individuals and families by finding those individuals rental assistant and case management services. The program has been in existence and received funding since 1999. It's never been codified in statute. Mr. President, the underlying bill was short, specific and targeted. The House amendment regrettably is none of these. Expanding the bill far beyond it's original scope, new items in the bill include: directive to the Insurance Commissioner to make recommendations by which the housing trust fund can reduce liability and earthquake insurance cost for developers; creation of a new housing communities program directing CTED to provide technical assistance to help organizations serving communities of color and multi-liguel communities; creation of a new housing infracstrucual program authorizing low interest loans to organizations for public works project such as roads, bridges, sidewalks and solid waste facilities to support affordable housing, creates the affordable housing for all program requiring states and local government plans to provide the affordable housing to all by 2020; and creates 'Ending Homelessness Act' directing CTED to annually conduct performance and evaluations of county plans and performance and requires counties to conduct a homeless census at least once a year. Thank you Mr. President."

Senator Hargrove spoke on the point of order.

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5959 was deferred and the bill held its place on the concurrence calendar.

MOTION TO LIMIT DEBATE

Senator Eide: "Mr. President, I move that the members of the Senate be allowed to speak but once on each question before the Senate, that such speech be limited to three minutes and that members be prohibited from yielding their time, however, the maker of a motion shall be allowed to open and close debate. This motion shall be in effect through March 12, 2008."

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

The motion by Senator Eide carried and debate was limited through March 12, 2008.

MOTION

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

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

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MESSAGE FROM THE HOUSE

March 11, 2008

MR. PRESIDENT:

The House receded from its amendment, and under suspension of rules SUBSTITUTE SENATE BILL NO. 6231 was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6231-S AMH UPTH H6049.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that Washington contains an array of marine protected areas managed by state, federal, tribal, and local governments in both coastal areas and in the Puget Sound. The many entities managing marine protected areas have developed distinct goals for protected areas, criteria for protected area establishment, management practices, terminology, and monitoring practices for these areas. The legislature supports all efforts to protect, conserve, and sustainably manage marine life and resources. However, the legislature finds that additional coordination between marine protected areas managers will improve the collective resource protection capacity of marine protected areas in Washington. The legislature further finds that additional coordination between state agencies and local governments and citizens will increase local involvement in, and the success of, marine protected areas.

(2) The legislature further finds that many state agencies and local governments, in addition to marine protected areas, also administer aquatic preserves, conservation areas, and other similar geographically based area conservation designations that are a valuable means to protect and enhance Puget Sound's marine resources. Climate change impacts and increased population and development in the Puget Sound basin will place further stresses upon sustaining the biological diversity and ecosystem health of Puget Sound, underscoring the importance of conservation efforts.

(3) It is the intent of the legislature that state and local actions intended to protect, conserve, and manage marine life and resources be conducted in a coordinated manner, use the best available science, consider the projected impacts on Puget Sound's marine areas from climate change, and contribute to the recovery of the Puget Sound's environmental health by 2020.

(4) It is the purpose of this act to:

(a) Create a strategic network of marine managed areas that contribute to conserving the biological diversity and ecosystem health of coastal areas and the Puget Sound and that contribute to the recovery of Puget Sound's health by 2020;

(b) Strengthen the coordination of marine managed areas among multiple state agencies and local governments and align these efforts with the work of the Puget Sound partnership to recover the Puget Sound's health by 2020;

(c) Provide for management and designation of marine managed areas programs on an ecosystem basis and incorporate the best available scientific information into these programs;

(d) Adopt a plan that builds a comprehensive system of marine managed areas in Washington's waters, adopts goals and benchmarks for maintaining the diversity of marine life and resources in Washington's waters, and is based upon anticipated threats and stressors such as climate change impacts and population growth;

(e) Recognize the interrelationship of the marine ecosystem throughout the Pacific Northwest, and the multiple entities, including local, state, provincial, and federal governments, as well as tribal governments and first nations, that are involved in managing marine managed areas; and

(f) Adopt codified criteria and procedures applicable to the aquatic reserve program on state-owned aquatic lands.

NEW SECTION. **Sec. 2.** (1) The coastal marine protected areas work group is established. The work group shall:

(a) Examine the current inventory and management of Washington's coastal marine protected areas;

(b) Develop recommendations to improve coordination and consistency among coastal marine protected areas and marine protected areas managers regarding goals for protected areas, criteria for protected area establishment, management practices, terminology, and monitoring practices;

(c) Develop recommendations to improve the integration of science into the establishment and management of coastal marine protected areas;

(d) Develop recommendations to further integrate local governments and nongovernmental organizations into the establishment and management of coastal marine protected areas; and

(e) Provide any other recommendations to improve the effectiveness of coastal marine protected areas in Washington.

(2)(a) The director of the department of fish and wildlife, or the director's designee, shall chair the work group created in this section. The chair is responsible for convening the work group and for directing the process of the work group.

(b) The chair of the work group shall invite a balanced composition of representatives from state agencies and local governments with jurisdiction over, or that manage, coastal marine protected areas in Washington to participate in the work group. These entities must include, but are not limited to:

(i) The department of fish and wildlife;

(ii) The department of natural resources;

(iii) The state parks and recreation commission;

(iv) Any appropriate marine resources committees; and

(v) Appropriate federal agencies and tribal governments.

(c) State agencies invited to participate in the work group must participate and work cooperatively with the department of fish and wildlife to carry out the requirements and purposes of this act.

(3) For the purposes of this section, "marine protected area" means a geographic marine or estuarine area located in coastal waters, as that term is defined in RCW 43.143.020, designated by a state, federal, tribal, or local government in order to provide long-term protection for part or all of the resources within that area.

(4) By December 1, 2009, the work group must provide the appropriate committees of the legislature with:

(a) An inventory of coastal marine protected areas in Washington; and

(b) A summary of the issues and recommendations identified under subsection (1)(b) through (e) of this section.

(5) The coastal marine protected areas work group established under this section shall coordinate with the marine managed areas work group established in section 6 of this act. The two work groups may share resources and expertise when appropriate.

Sec. 3. RCW 90.71.010 and 2007 c 341 s 2 are each amended to read as follows:

((~~Unless the context clearly requires otherwise,~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Action agenda" means the comprehensive schedule of projects, programs, and other activities designed to achieve a healthy Puget Sound ecosystem that is authorized and further described in RCW 90.71.300 and 90.71.310.

(2) "Action area" means the geographic areas delineated as provided in RCW 90.71.260.

(3) "Benchmarks" means measurable interim milestones or achievements established to demonstrate progress towards a goal, objective, or outcome.

(4) "Board" means the ecosystem coordination board.

(5) "Council" means the leadership council.

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(6) "Environmental indicator" means a physical, biological, or chemical measurement, statistic, or value that provides a proximate gauge, or evidence of, the state or condition of Puget Sound.

(7) "Implementation strategies" means the strategies incorporated on a biennial basis in the action agenda developed under RCW 90.71.310.

(8) "Marine managed area" means a named, discrete geographic marine or estuarine area designated by statute, ordinance, resolution, or administrative action, whose designation is intended to protect, conserve, or otherwise manage the marine life and resources within the area.

(9) "Nearshore" means the area beginning at the crest of coastal bluffs and extending seaward through the marine photics zone, and to the head of tide in coastal rivers and streams. "Nearshore" also means both shoreline and estuaries.

((~~(9)~~)) (10) "Panel" means the Puget Sound science panel.

((~~(10)~~)) (11) "Partnership" means the Puget Sound partnership.

((~~(11)~~)) (12) "Plan" means the Puget Sound marine managed areas plan developed under section 4 of this act.

(13) "Puget Sound" means Puget Sound and related inland marine waters, including all salt waters of the state of Washington inside the international boundary line between Washington and British Columbia, and lying east of the junction of the Pacific Ocean and the Strait of Juan de Fuca, and the rivers and streams draining to Puget Sound as mapped by water resource inventory areas 1 through 19 in WAC 173-500-040 as it exists on July 1, 2007.

((~~(12)~~)) (14) "Puget Sound partner" means an entity that has been recognized by the partnership, as provided in RCW 90.71.340, as having consistently achieved outstanding progress in implementing the 2020 action agenda.

((~~(13)~~)) (15) "Watershed groups" means all groups sponsoring or administering watershed programs, including but not limited to local governments, private sector entities, watershed planning units, watershed councils, shellfish protection areas, regional fishery enhancement groups, marine ((~~resource[s]~~)) resources committees including those working with the Northwest straits commission, nearshore groups, and watershed lead entities.

((~~(14)~~)) (16) "Watershed programs" means and includes all watershed-level plans, programs, projects, and activities that relate to or may contribute to the protection or restoration of Puget Sound waters. Such programs include jurisdiction-wide programs regardless of whether more than one watershed is addressed.

NEW SECTION. **Sec. 4.** A new section is added to chapter 90.71 RCW to read as follows:

(1) The partnership shall prepare a Puget Sound marine managed areas plan to coordinate and strengthen all of the marine managed areas programs managed by state agencies and local governments. The plan must be incorporated into the Puget Sound action agenda adopted under RCW 90.71.310.

(2) The plan required by this section must include, but not be limited to:

(a) Guidelines for identifying key species of concern, threats to these species, and threshold levels of protected habitat needed to recover these species and Puget Sound as a whole to health by 2020;

(b) Guidelines for incorporating the best available scientific information when designating and managing marine managed areas;

(c) Guidelines for managing areas on an ecosystem basis and for coordinating multiple programs and areas within the same biogeographical regions to achieve ecosystem-based management;

(d) Benchmarks to measure progress toward the recovery of species and protected habitat;

(e) Recommendations for adequate levels of funding for the designation, long-term management, and monitoring of the marine managed areas in the network;

(f) Strategies to address the projected impacts to marine managed areas from population growth, existing and proposed upland and aquatic lands development, and storm water discharges to Puget Sound;

(g) Strategies to prepare for and manage the impacts of climate change, including impacts due to sea level changes, salinity changes, water temperature, increased acidification, and changes in frequency and intensity of precipitation events affecting storm water discharges to marine waters;

(h) An adaptive management component in which new information on the progress of implementing management goals for the individual marine managed areas and overall goals for all marine managed areas, including the consideration and integration of the contribution these areas are making toward the goals of recovering the health of Puget Sound by 2020, and climate change impacts; and

(i) Methodologies for synthesizing monitoring results with programmatic goals to inform decision making on subsequent designation and marine managed areas strategies and any necessary changes in implementation strategies to increase the effectiveness of the marine managed areas program in achieving the goal of recovering the Puget Sound's health by 2020.

(3) The plan required by this section must also include comprehensive objectives for coordinating existing marine managed areas and designating additional areas to achieve a network of marine managed areas contributing to long-term conservation of important biota and marine ecosystems and recovery of Puget Sound by and consider activities and uses within or adjacent to marine managed areas that are allowed under existing leases of state-owned aquatic lands issued under chapter 79.105 RCW.

(4) The plan required by this section must be completed by July 1, 2010, and submitted to the council for its review and approval. The council shall provide for public review and comment on the plan in a manner comparable to the other provisions of the Puget Sound action agenda. The council may amend the plan from time to time using public review and comment procedures comparable to those that apply when other elements of the Puget Sound action agenda are revised.

NEW SECTION. **Sec. 5.** The Puget Sound partnership shall provide the plan required by section 4 of this act to the appropriate committees of the legislature by December 1, 2010, together with its recommendations for further policy legislation and budget recommendations to enhance Puget Sound marine managed areas programs.

NEW SECTION. **Sec. 6.** (1) The Puget Sound marine managed areas plan required by section 4 of this act must be developed with the assistance of a work group on marine managed areas. The chair of the Puget Sound partnership leadership council is responsible for convening the work group, inviting participation on the work group, and for directing the process of the work group.

(2)(a) The work group created in this section must include one or more members of the Puget Sound science panel, one of whom must serve as chair of the work group.

(b) The chair of the Puget Sound partnership leadership council must also invite the participation of the following:

(i) State agencies and local governments with regulatory jurisdiction over, or that manage, marine managed areas including, but not limited to, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and the department of ecology;

(ii) The state biodiversity council, created by executive order 04-02, or the biodiversity council's successor entity;

(iii) Representatives of tribal governments, federal agencies, cities, counties, marine resources committees, and nongovernmental organizations that have designated or have

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significant interests in the management of Puget Sound marine managed areas; and

(iv) Any other individuals or representatives of entities with expertise, perspective, or knowledge deemed beneficial by the chair of the Puget Sound partnership leadership council in assisting the work group to achieve its goals and responsibilities.

(c) The chair of the Puget Sound partnership leadership council may also invite representatives from other states, provinces, first nations, and tribal governments with interests in marine managed areas in the Pacific Northwest to participate on the work group as observers.

(3) In developing the objectives required by section 4(3) of this act, the work group must rely primarily upon existing plans and objectives relating to the conservation of marine life in Puget Sound and the program plans prepared by state agencies and local governments administering marine managed areas programs.

(4) The marine managed areas work group established under this section shall coordinate with the coastal marine protected areas work group established in section 2 of this act. The two work groups may share resources and expertise when appropriate.

Sec. 7. RCW 79.105.210 and 2005 c 155 s 143 are each amended to read as follows:

(1) The management of state-owned aquatic lands shall preserve and enhance water-dependent uses. Water-dependent uses shall be favored over other uses in state-owned aquatic land planning and in resolving conflicts between competing lease applications. In cases of conflict between water-dependent uses, priority shall be given to uses which enhance renewable resources, water-borne commerce, and the navigational and biological capacity of the waters, and to statewide interests as distinguished from local interests.

(2) Nonwater-dependent use of state-owned aquatic lands is a low-priority use providing minimal public benefits and shall not be permitted to expand or be established in new areas except in exceptional circumstances where it is compatible with water-dependent uses occurring in or planned for the area.

(3)(a) The department shall consider the natural values of state-owned aquatic lands as wildlife habitat, natural area preserve, representative ecosystem, or spawning area prior to issuing any initial lease or authorizing any change in use.

(b) The department may withhold from leasing lands which it finds to have significant natural values, or may provide within any lease for the protection of such values. When withdrawing lands from leasing for the purposes of managing an aquatic reserve, the department shall be guided by the procedures and criteria of sections 8 through 14 of this act.

(4) The power to lease state-owned aquatic lands is vested in the department, which has the authority to make leases upon terms, conditions, and length of time in conformance with the state Constitution and chapters 79.105 through 79.140 RCW.

(5) State-owned aquatic lands shall not be leased to persons or organizations which discriminate on the basis of race, color, creed, religion, sex, age, or physical or mental handicap.

NEW SECTION. **Sec. 8.** A new section is added to chapter 79.105 RCW under a new subchapter heading of "aquatic reserve system" to read as follows:

The aquatic reserve system is established for the purpose of aiding Washington with its goals of supporting and coordinating marine protected areas. The aquatic reserve system is comprised of those areas of state-owned aquatic lands designated by the department prior to the effective date of this section and any areas added to the system under this chapter by order of the commissioner after the effective date of this section.

NEW SECTION. **Sec. 9.** A new section is added to chapter 79.105 RCW under a new subchapter heading of "aquatic reserve system" to read as follows:

State-owned aquatic lands that have one or more of the following characteristics may be included by order of the commissioner as an aquatic reserve:

(1) The lands have been identified as having high priority for conservation, natural systems, wildlife, or low-impact public use values;

(2) The lands have flora, fauna, geological, recreational, archaeological, cultural, scenic, or similar features of critical importance and have retained to some degree or reestablished its natural character;

(3) The lands provide significant examples of native ecological communities;

(4) The lands have significant sites or features threatened with conversion to incompatible uses; and

(5) The lands have been identified by the Puget Sound science panel created in RCW 90.71.270 as critical to achieving recovery of Puget Sound by 2020.

NEW SECTION. **Sec. 10.** A new section is added to chapter 79.105 RCW under a new subchapter heading of "aquatic reserve system" to read as follows:

(1) The commissioner shall adopt procedures for submission of aquatic reserve nominations and for public participation in the review of proposed aquatic reserves.

(2) If, consistent with the best available scientific information, an aquatic reserve no longer meets the goals and objectives for which it was designated, and adaptive management has not been successful to meet the goals and objectives, the commissioner may by order modify the aquatic reserve boundaries or remove the area from aquatic reserve status.

(3) The commissioner shall provide public participation procedures for proposals relating to the nomination, designation, and removal of aquatic reserve status.

NEW SECTION. **Sec. 11.** A new section is added to chapter 79.105 RCW under a new subchapter heading of "aquatic reserve system" to read as follows:

In the designation and management of aquatic reserves within Puget Sound, as geographically defined in RCW 90.71.010, the commissioner shall be guided by the marine managed areas plan adopted under section 4 of this act. The commissioner shall accord substantial weight to any recommendations provided by the Puget Sound partnership regarding the designation and management of aquatic reserves within Puget Sound.

NEW SECTION. **Sec. 12.** A new section is added to chapter 79.105 RCW under a new subchapter heading of "aquatic reserve system" to read as follows:

Where the commissioner determines that management of the taking of fish, shellfish, or wildlife within or adjacent to an aquatic reserve would enhance the objectives for which the aquatic reserve has been created, the commissioner shall request that the fish and wildlife commission act pursuant to section 16 of this act to adopt supporting rules.

NEW SECTION. **Sec. 13.** A new section is added to chapter 79.105 RCW under a new subchapter heading of "aquatic reserve system" to read as follows:

The aquatic reserve system must be coordinated with other marine managed areas, federally recognized marine protected areas, and related regulatory programs. To further this goal, the department shall:

(1) Cooperate with other state agencies and local governments to manage state-owned aquatic lands consistently with the management of uses and activities in the same geographic areas by the state parks and recreation commission, the department of fish and wildlife, the department of ecology, and other appropriate state agencies; and

(2) Provide recommendations to local governments in updating their shoreline master programs under chapter 90.58 RCW and in sponsoring local marine park reserves or voluntary stewardship areas to seek consistent planning and management activities in areas adjacent to designated reserves.

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NEW SECTION. **Sec. 14.** A new section is added to chapter 79.105 RCW under a new subchapter heading of "aquatic reserve system" to read as follows:

(1) State agencies with authority over construction activities or water discharges in state waters or that otherwise implement programs that affect a designated aquatic reserve shall give special consideration to increasing protection and reducing and preventing pollution of these areas, consistent with the management objectives of the aquatic reserve.

(2) The department should participate in any public processes regarding water discharge or construction permitting affecting aquatic reserves to aid other agencies in their understanding of the provisions of this subsection.

NEW SECTION. **Sec. 15.** Within twenty-four months of the adoption of the marine managed areas plan under section 4 of this act, the department of natural resources shall complete a review of existing management plans and pending aquatic reserve nominations for consistency with the guidelines and recommendations in the marine managed areas plan.

NEW SECTION. **Sec. 16.** A new section is added to chapter 77.12 RCW to read as follows:

(1) The commission may adopt rules governing the taking of fish, shellfish, or wildlife within or adjacent to an aquatic reserve designated by the department of natural resources under section 12 of this act, or other marine managed areas, as that term is defined in RCW 90.71.010. The commission shall give consideration within sixty days to any rule changes requested by the commissioner of public lands to support the purposes of an aquatic reserve.

(2) This section is in addition to and does not limit the commission's authority to establish rules governing the taking of fish, shellfish, or wildlife under any other authority.

Sec. 17. RCW 90.71.300 and 2007 c 341 s 12 are each amended to read as follows:

(1) The action agenda shall consist of the goals and objectives in this section, implementation strategies to meet measurable outcomes, benchmarks, ((~~and~~)) identification of responsible entities, and the marine managed areas plan adopted under section 4 of this act. By 2020, the action agenda shall strive to achieve the following goals:

(a) A healthy human population supported by a healthy Puget Sound that is not threatened by changes in the ecosystem;

(b) A quality of human life that is sustained by a functioning Puget Sound ecosystem;

(c) Healthy and sustaining populations of native species in Puget Sound, including a robust food web;

(d) A healthy Puget Sound where freshwater, estuary, nearshore, marine, and upland habitats are protected, restored, and sustained;

(e) An ecosystem that is supported by ground water levels as well as river and stream flow levels sufficient to sustain people, fish, and wildlife, and the natural functions of the environment;

(f) Fresh and marine waters and sediments of a sufficient quality so that the waters in the region are safe for drinking, swimming, shellfish harvest and consumption, and other human uses and enjoyment, and are not harmful to the native marine mammals, fish, birds, and shellfish of the region.

(2) The action agenda shall be developed and implemented to achieve the following objectives:

(a) Protect existing habitat and prevent further losses;

(b) Restore habitat functions and values;

(c) Significantly reduce toxics entering Puget Sound fresh and marine waters;

(d) Significantly reduce nutrients and pathogens entering Puget Sound fresh and marine waters;

(e) Improve water quality and habitat by managing storm water runoff;

(f) Provide water for people, fish and wildlife, and the environment;

(g) Protect ecosystem biodiversity and recover imperiled species; and

(h) Build and sustain the capacity for action.

Sec. 18. RCW 90.71.310 and 2007 c 341 s 13 are each amended to read as follows:

(1) The council shall develop a science-based action agenda that leads to the recovery of Puget Sound by 2020 and achievement of the goals and objectives established in RCW 90.71.300. The action agenda shall:

(a) Address all geographic areas of Puget Sound including upland areas and tributary rivers and streams that affect Puget Sound;

(b) Describe the problems affecting Puget Sound's health using supporting scientific data, and provide a summary of the historical environmental health conditions of Puget Sound so as to determine past levels of pollution and restorative actions that have established the current health conditions of Puget Sound;

(c) Meet the goals and objectives described in RCW 90.71.300, including measurable outcomes for each goal and objective specifically describing what will be achieved, how it will be quantified, and how progress towards outcomes will be measured. The action agenda shall include near-term and long-term benchmarks designed to ensure continuous progress needed to reach the goals, objectives, and designated outcomes by 2020. The council shall consult with the panel in developing these elements of the plan;

(d) Identify and prioritize the strategies and actions necessary to restore and protect Puget Sound and to achieve the goals and objectives described in RCW 90.71.300;

(e) Identify the agency, entity, or person responsible for completing the necessary strategies and actions, and potential sources of funding;

(f) Include prioritized actions identified through the assembled proposals from each of the seven action areas and the identification and assessment of ecosystem scale programs as provided in RCW 90.71.260;

(g) Include specific actions to address aquatic rehabilitation zone one, as defined in RCW 90.88.010;

(h) Incorporate any additional goals adopted by the council; and

(i) Incorporate appropriate actions to carry out the biennial science work plan created in RCW 90.71.290.

(2) In developing the action agenda and any subsequent revisions, the council shall, when appropriate, incorporate the following:

(a) Water quality, water quantity, sediment quality, watershed, marine resource, and habitat restoration plans created by governmental agencies, watershed groups, and marine and shoreline groups. The council shall consult with the board in incorporating these plans;

(b) Recovery plans for salmon, orca, and other species in Puget Sound listed under the federal endangered species act;

(c) Existing plans and agreements signed by the governor, the commissioner of public lands, other state officials, or by federal agencies;

(d) Appropriate portions of the Puget Sound water quality management plan existing on July 1, 2007.

(3) Until the action agenda is adopted, the existing Puget Sound management plan and the 2007-09 Puget Sound biennial plan shall remain in effect. The existing Puget Sound management plan shall also continue to serve as the comprehensive conservation and management plan for the purposes of the national estuary program described in section 320 of the federal clean water act, until replaced by the action agenda and approved by the United States environmental protection agency as the new comprehensive conservation and management plan.

(4) The council shall adopt the action agenda by ((~~September~~)) December 1, 2008. The council shall revise the action agenda as needed, and revise the implementation strategies every two years using an adaptive management process informed by tracking actions and monitoring results in Puget Sound. In revising the action agenda and the

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implementation strategies, the council shall consult the panel and the board and provide opportunity for public review and comment. Biennial updates shall:

(a) Contain a detailed description of prioritized actions necessary in the biennium to achieve the goals, objectives, outcomes, and benchmarks of progress identified in the action agenda;

(b) Identify the agency, entity, or person responsible for completing the necessary action; and

(c) Establish biennial benchmarks for near-term actions.

(5) The action agenda shall be organized and maintained in a single document to facilitate public accessibility to the plan.

Sec. 19. RCW 90.71.370 and 2007 c 341 s 19 are each amended to read as follows:

(1) By ((~~September 1st~~)) December 1, 2008, and by the first weekday in September of each even-numbered year beginning in ((~~2008~~)) 2010, the council shall provide to the governor and the appropriate fiscal committees of the ((~~senate and house of representatives~~)) legislature its recommendations for the funding necessary to implement the action agenda in the succeeding biennium. The recommendations shall:

(a) Identify the funding needed by action agenda element;

(b) Address funding responsibilities among local, state, and federal governments, as well as nongovernmental funding; and

(c) Address funding needed to support the work of the partnership, the panel, the ecosystem work group, and entities assisting in coordinating local efforts to implement the plan.

(2) In the 2008 report required under subsection (1) of this section, the council shall include recommendations for projected funding needed through 2020 to implement the action agenda; funding needs for science panel staff; identify methods to secure stable and sufficient funding to meet these needs; and include proposals for new sources of funding to be dedicated to Puget Sound protection and recovery. In preparing the science panel staffing proposal, the council shall consult with the panel.

(3) By the first weekday in November ((~~1st~~)) of each odd-numbered year beginning in 2009, the council shall produce a state of the Sound report that includes, at a minimum:

(a) An assessment of progress by state and nonstate entities in implementing the action agenda, including accomplishments in the use of state funds for action agenda implementation;

(b) A description of actions by implementing entities that are inconsistent with the action agenda and steps taken to remedy the inconsistency;

(c) The comments by the panel on progress in implementing the plan, as well as findings arising from the assessment and monitoring program;

(d) A review of citizen concerns provided to the partnership and the disposition of those concerns;

(e) A review of the expenditures of funds to state agencies for the implementation of programs affecting the protection and recovery of Puget Sound, and an assessment of whether the use of the funds is consistent with the action agenda; and

(f) An identification of all funds provided to the partnership, and recommendations as to how future state expenditures for all entities, including the partnership, could better match the priorities of the action agenda.

(4)(a) The council shall review state programs that fund facilities and activities that may contribute to action agenda implementation. By November 1, 2009, the council shall provide initial recommendations regarding program changes to the governor and appropriate fiscal and policy committees of the ((~~senate and house of representatives~~)) legislature. By November 1, 2010, the council shall provide final recommendations regarding program changes, including proposed legislation to implement the recommendation, to the governor and appropriate fiscal and policy committees of the ((~~senate and house of representatives~~)) legislature.

(b) The review in this subsection shall be conducted with the active assistance and collaboration of the agencies administering these programs, and in consultation with local governments and other entities receiving funding from these programs:

(i) The water quality account, chapter 70.146 RCW;

(ii) The water pollution control revolving fund, chapter 90.50A RCW;

(iii) The public works assistance account, chapter 43.155 RCW;

(iv) The aquatic lands enhancement account, RCW 79.105.150;

(v) The state toxics control account and local toxics control account and clean-up program, chapter 70.105D RCW;

(vi) The acquisition of habitat conservation and outdoor recreation land, chapter 79A.15 RCW;

(vii) The salmon recovery funding board, RCW 77.85.110 through 77.85.150;

(viii) The community economic revitalization board, chapter 43.160 RCW;

(ix) Other state financial assistance to water quality-related projects and activities; and

(x) Water quality financial assistance from federal programs administered through state programs or provided directly to local governments in the Puget Sound basin.

(c) The council's review shall include but not be limited to:

(i) Determining the level of funding and types of projects and activities funded through the programs that contribute to implementation of the action agenda;

(ii) Evaluating the procedures and criteria in each program for determining which projects and activities to fund, and their relationship to the goals and priorities of the action agenda;

(iii) Assessing methods for ensuring that the goals and priorities of the action agenda are given priority when program funding decisions are made regarding water quality-related projects and activities in the Puget Sound basin and habitat-related projects and activities in the Puget Sound basin;

(iv) Modifying funding criteria so that projects, programs, and activities that are inconsistent with the action agenda are ineligible for funding;

(v) Assessing ways to incorporate a strategic funding approach for the action agenda within the outcome-focused performance measures required by RCW 43.41.270 in administering natural resource-related and environmentally based grant and loan programs.

Sec. 20. RCW 36.125.030 and 2007 c 344 s 4 are each amended to read as follows:

(1) The Puget Sound ((~~action team, or its successor organization,~~)) partnership shall serve as the regional coordinating entity for marine resources committees created in the southern Puget Sound and the department of fish and wildlife shall serve as the regional coordinating entity for marine resources committees created for the outer coast.

(2) The regional coordinating entity shall serve as a resource to, at a minimum:

(a) Coordinate and pool grant applications and other funding requests for marine resources committees;

(b) Coordinate communications and information among marine resources committees;

(c) Assist marine resources committees to measure themselves against regional performance benchmarks;

(d) Assist marine resources committees with coordinating local projects to complement regional priorities;

(e) Assist marine resources committees to interact with and complement other marine resources committees, and other similar groups, constituted under a different authority; and

(f) Coordinate with the Northwest Straits commission on issues common to marine resources committees statewide.

Sec. 21. RCW 36.125.020 and 2007 c 344 s 3 are each amended to read as follows:

(1) A marine resources committee, as described in RCW 36.125.010, may be created by the legislative authority of any county bordering the marine waters of the outer coast or Puget Sound, in cooperation with all appropriate cities and special

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districts within their boundaries. Adjacent county legislative authorities shall coordinate their efforts whenever there is a mutual interest in creating a marine resources committee.

(2) A county may delegate the management and oversight of a marine resources committee created by the county under RCW 36.125.010 to a city, or cities, within its jurisdiction, if the city or cities are located on the marine waters of the outer coast or southern Puget Sound and are willing to accept the delegation.

(3)(a) Participating county legislative authorities must select members of the marine resources committee, ensuring balanced representation from: Local government; local residents; scientific experts; affected economic interests; affected recreational interests; and environmental and conservation interests. Additionally, participating county legislative authorities must invite tribal representatives to participate in the marine resources committee.

(b) In lieu of creating a new entity, participating county legislative authorities may designate a lead entity created under RCW 77.85.050 to also serve as a marine resources committee. County legislative authorities may only make this designation where the lead entity consents in writing to also serve as a marine resources committee.

(c) An initiating county may delegate its appointment authority to a city or cities that have received from the county the delegated responsibilities of managing and overseeing the marine resources committee.

(4) County residents may petition the county legislative authority to create a marine resources committee. Upon receipt of a petition, the county legislative authority must respond in writing within sixty days as to whether they will authorize the creation of a marine resources committee as well as the reasons for their decision.

NEW SECTION. **Sec. 22.** A new section is added to chapter 36.125 RCW to read as follows:

(1) The outer coast marine resources committee program is created to provide support for the development, administration, and coordination of outer coast marine resources committees and their projects, including projects relating to marine protected areas.

(2) The director of the department of fish and wildlife, pursuant to section 23 of this act, shall serve as the administrator of the outer coast marine resources committee program. As the administrator of the program, the director of the department of fish and wildlife shall:

(a) Provide each outer coast marine resources committee with a coordinator to support the administration and work of the committee; and

(b) Distribute grants to outer coast marine resources committees for projects that benefit Washington's coastal marine resources. The director of the department of fish and wildlife shall develop procedures and criteria for allocating funds for projects, which may include annual allocation of funding to each committee.

(3) Each outer coast marine resources committee shall prepare and deliver an annual report to the director of the department of fish and wildlife by October 31st of each year. The report must include, but is not limited to, a summary of actions taken that year and prioritized recommendations for future action. The director of the department of fish and wildlife shall compile the individual outer coast marine resources committee reports into a consolidated biennial report, and provide the consolidated report to the governor and appropriate committees of the legislature by December 31st of every other year.

NEW SECTION. **Sec. 23.** A new section is added to chapter 77.12 RCW to read as follows:

To support the goals of outer coast marine protected areas, the department shall serve as the administrator of the outer coast marine resources committee program established in section 22 of this act.

NEW SECTION. **Sec. 24.** (1) Sections 2, 5, and 6 of this act expire July 1, 2011.

(2) Section 15 of this act expires July 1, 2013.

NEW SECTION. **Sec. 25.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6231.

POINT OF ORDER

Senator Honeyford: “Thank you Mr. President. I believe that the House amendment is beyond the scope and object of the bill as it left the Senate. I have some arguments that I will present to you in writing.”

MOTION

On motion of Senator Eide, further consideration of Substitute Senate Bill No. 6231 was deferred and the bill held its place on the concurrence calendar.

MESSAGE FROM THE HOUSE

March 11, 2008

MR. PRESIDENT:

The House receded from its amendment, under suspension of rules SUBSTITUTE SENATE BILL NO. 6277 was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6277-S AMH CLIB H6061.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 47.04 RCW to read as follows:

(1) Any local transit agency that has received state funding for a park and ride lot shall make reasonable accommodation for use of that lot by auto transportation companies regulated under chapter 81.68 RCW and private, nonprofit transportation providers regulated under chapter 81.66 RCW, that intend to provide or already provide regularly scheduled service at that lot. The accommodation must be in the form of an agreement between the applicable local transit agency and private transit provider regulated under chapter 81.68 or 81.66 RCW. The transit agency may require that the agreement include provisions to recover costs and fair market value for the use of the lot and its related facilities and to provide adequate insurance and indemnification of the transit agency, and other reasonable provisions to ensure that the private transit provider's use does not unduly burden the transit agency. No accommodation is required, and any agreement may be terminated, if the park and ride lot is at or exceeds ninety percent capacity.

(2) A local transit agency described under subsection (1) of this section may enter into a cooperative agreement with a taxicab company regulated under chapter 81.72 RCW in order to accommodate the taxicab company at the agency's park and ride lot, provided the taxicab company must agree to provide service with reasonable availability, subject to schedule coordination provisions as agreed to by the parties."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Murray moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6277.

MOTION

On motion of Senator Brandland, Senator Benton was excused.

The President declared the question before the Senate to be the motion by Senator Murray that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6277.

The motion by Senator Murray carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6277 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6277, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6277, 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 Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Absent: Senator Brown - 1

Excused: Senator Benton - 1

SUBSTITUTE SENATE BILL NO. 6277, 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

March 11, 2008

MR. PRESIDENT:

The House receded from its amendment, and under suspension of rules ENGROSSED SUBSTITUTE SENATE BILL NO. 6295 was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6295-S.E AMH WALL H6044.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that there are many working adults in Washington that need additional postsecondary educational opportunities to further develop their employability. The legislature further finds that many of these people postpone or call off their personal educational plans because they are busy working and raising their families. Because the largest portion of our workforce over the next thirty years is already employed but in need of skill development, and because many low-wage, low-skilled, and mid-skilled individuals cannot take advantage of postsecondary educational opportunities as they currently exist, the legislature intends to identify and test additional postsecondary educational opportunities tailored to make postsecondary education accessible to working adults through the use of campuses extended to include workplace-based educational offerings.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28C.18 RCW to read as follows:

(1) To the extent funds are appropriated specifically for this purpose and in partnership with the state board for community and technical colleges, the board shall convene a work group that includes representatives from the prosperity partnership, the technology alliance, the higher education coordinating board, a private career or vocational school, a four-year public institution of higher education, the council of faculty representatives, the united faculty of Washington state, community and technical college faculty, and a community and technical college student, to take the following actions related to electronically distributed learning:

(a) Identify and evaluate current national private employer workplace-based educational programs with electronically distributed learning components provided by public colleges and universities. The evaluation shall include:

(i) A review of the literature and interviews of practitioners about promising practices and results;

(ii) An initial determination of feasibility based on targeted populations served, subject matter, and level of education;

(iii) An overview of technological considerations and adult learning strategies for distribution of learning to employer sites; and

(iv) An overview of cost factors, including shared costs or coinvestments by public and private partners;

(b) Review and, to the extent necessary, establish standards and best practices regarding electronically distributed learning and related support services including online help desk support, advising, mentoring, counseling, and tutoring;

(c) Recommend methods to increase student access to electronically distributed learning programs of study and identify barriers to programs of study participation and completion;

(d) Determine methods to increase the institutional supply and quality of open course materials, with a focus on the OpenCourseWare initiative at the Massachusetts Institute of Technology;

(e) Recommend methods to increase the availability and use of digital open textbooks; and

(f) Review and report demographic information on electronically distributed learning programs of study enrollments, retention, and completions.

(2) The board shall work in cooperation with the state board for community and technical colleges to report the preliminary results of the studies to the appropriate committees of the legislature by December 1, 2008, and a final report by December 1, 2009.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28C.18 RCW to read as follows:

(1) To the extent funds are appropriated specifically for this purpose, the board shall use a matching fund strategy to select and evaluate up to eight pilot projects operated by Washington institutions of higher education. By September 2008, the board shall select up to eight institutions of higher education as defined in RCW 28B.92.030 including at least four community or technical colleges to develop and offer a pilot project providing employer workplace-based educational programs with distance learning components. The board shall convene a task force that includes representatives from the state board for community and technical colleges and the higher education coordinating board to select the participant institutions. At a minimum, the criteria for selecting the educational institutions shall address:

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(a) The ability to demonstrate a capacity to make a commitment of resources to build and sustain a high quality program;

(b) The ability to readily engage faculty appropriately qualified to develop and deliver a high quality curriculum;

(c) The ability to demonstrate demand for the proposed program from a sufficient number of interested employees within its service area to make the program cost-effective and feasible to operate; and

(d) The identification of employers that demonstrate a commitment to host an on-site program. Employers shall demonstrate their commitment to provide:

(i) Access to educational coursework and educational advice and support for entry-level and semiskilled workers, including paid and unpaid release time, and adequate classroom space that is equipped appropriately for the selected technological distance learning methodologies to be used;

(ii) On-site promotion and encouragement of worker participation, including employee orientations, peer support and mentoring, educational tutoring, and career planning;

(iii) Allowance of a reasonable level of worker choice in the type and level of coursework available;

(iv) Commitment to work with college partner to ensure the relevance of coursework to the skill demands and potential career pathways of the employer host site and other participating employers;

(v) Willingness to participate in an evaluation of the pilot to analyze the net benefit to the employer host site, other employer partners, the worker-students, and the colleges; and

(vi) In firms with union representation, the mandatory establishment of a labor-management committee to oversee design and participation.

(2) Institutions of higher education may submit an application to become a pilot college under this section. An institution of higher education selected as a pilot college shall develop the curriculum for and design and deliver courses. However, the programs developed under this section are subject to approval by the state board for technical and community colleges under RCW 28B.50.090 and by the higher education coordinating board under RCW 28B.76.230.

(3) The board shall evaluate the pilot project and report the outcomes to students and employers by December 1, 2012.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28C.18 RCW to read as follows:

The board may receive and expend federal funds and private gifts or grants, which funds must be expended in accordance with any conditions upon which the funds are contingent.

NEW SECTION. **Sec. 5.** Sections 2 through 4 of this act expire December 31, 2012."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6295.

MOTION

On motion of Senator Marr, Senator Brown was excused.

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 Engrossed Substitute Senate Bill No. 6295.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6295 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6295, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6295, 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 Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SUBSTITUTE SENATE BILL NO. 6295, 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

March 11, 2008

MR. PRESIDENT:

The House receded from its amendment, and under suspension of rules ENGROSSED SUBSTITUTE SENATE BILL NO. 6371 was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6371-S.E AMH HASE H6034.1, and passed the bill as amended by the House.

On page 4, after line 2, insert the following:

"(10) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall report to the higher education committees of the legislature by November 15, 2010, and every two years thereafter, regarding the status of implementation of the waivers under subsection (4) of this section. The reports shall include the following data and information:

(a) Total number of waivers;

(b) Total amount of tuition waived;

(c) Total amount of fees waived;

(d) Average amount of tuition and fees waived per recipient;

(e) Recipient demographic data that is disaggregated by distinct ethnic categories within racial subgroups; and

(f) Recipient income level, to the extent possible."

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Shin moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6371.

Senator Shin spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Shin that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6371.

The motion by Senator Shin carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6371 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6371, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6371, 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 Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SUBSTITUTE SENATE BILL NO. 6371, 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

March 11, 2008

MR. PRESIDENT:

Under suspension of the rules, SUBSTITUTE SENATE BILL NO. 6404 was returned to second reading for the purpose of an amendment. The committee amendment by the Committee on Health Care & Wellness was before the House for purpose of amendment. The House adopted the following amendment: 6404-S AMH CODY KNUT 096 to the committee amendment, and passed the bill as amended by the House.

On page 18, line 12 of the amendment, after "provide" strike all material through "network" on line 15 and insert the following: "one hundred eighty days' notice of any issue that may cause either party to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to act as a regional support network. If either party decides to voluntarily terminate, refuse to renew, or refuse to sign a mandatory amendment to the contract to serve as a regional support network they shall provide ninety days' advance notice in writing to the other party"

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6404.

Senator Hargrove spoke in favor of the motion.

MOTION

On motion of Senator Hobbs, Senators Fraser, Prentice, Pridemore and Regala were excused.

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 Substitute Senate Bill No. 6404.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6404 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6404, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6404, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Fraser, Prentice and Regala - 3

SUBSTITUTE SENATE BILL NO. 6404, 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.

PARLIAMENTARY INQUIRY

Senator Honeyford: "We just received the copy of the operating budget and its dated March 12, 2008, 11:00 a.m. The receiving stamp is dated March 11. I believe this may cause some confusion."

REPLY BY THE PRESIDENT

President Owen: "Thank you Senator Honeyford. You note that there are two dates on there. The first date is when they actually received. The date that counts here is the date, the 12th , where it's the report when we actually present the report on desk."

PARLIAMENTARY INQUIRY

Senator Honeyford: "You're saying they received this on March 11 and we received it on March 12?"

REPLY BY THE PRESIDENT

President Owen: "I'm sorry, that was my mistake. The mistake is they hadn't changed the date on the stamp. That was an incorrect stamp and now as you can see it's written on there with a proper date on it which is the 12th."

MOTION

On motion of Senator Holmquist, Senator Brandland was excused.

MOTION

On motion of Senator Marr, Senator Brown was excused.

MESSAGE FROM THE HOUSE

March 11, 2008

MR. PRESIDENT:

The House receded from its amendment, and under suspension of rules ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6438 was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6438-S2.E AMH MCCO H6046.1, and passed the bill as amended by the House.

Beginning on page 1, line 3 of the amendment, strike everything through "other authority." on page 6 and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds and declares the following:

(a) The deployment and adoption of high-speed internet services and information technology has resulted in enhanced economic development and public safety for the state's communities, improved health care and educational opportunities, and a better quality of life for the state's residents;

(b) Continued progress in the deployment and adoption of high-speed internet services and other advanced telecommunications services, both land-based and wireless, is vital to ensuring Washington remains competitive and continues to create business and job growth; and

(c) That the state must encourage and support strategic partnerships of public, private, nonprofit, and community-based sectors in the continued growth and development of high-speed internet services and information technology for state residents and businesses.

(2) Therefore, in order to begin advancing the state towards further growth and development of high-speed internet in the state, and to ensure a better quality of life for all state residents, it is the legislature's intent to conduct a statewide needs assessment of broadband internet resources through an open dialogue with all interested parties, including providers, unions, businesses, community organizations, local governments, and state agencies. The legislature intends to use this needs assessment in guiding future plans on how to ensure that every resident in Washington state may gain access to high-speed internet services and, as part of this effort, to address digital literacy and technology training needs of low-income and technology underserved residents of the state through state support of community technology programs.

NEW SECTION. **Sec. 2.** (1) After the broadband study authorized by the legislature in 2007 has been completed, or by July 15, 2008, the department of information services, in coordination with the department of community, trade, and economic development and the utilities and transportation commission, shall convene a work group to develop a high-speed internet deployment and adoption strategy for the state.

(2) The department of information services shall invite representatives from the following organizations to participate in the work group:

(a) Representatives of public, private, and nonprofit agencies and organizations representing economic development, local community development, local government, community planning, technology planning, education, and health care;

(b) Representatives of telecommunications providers, technology companies, telecommunications unions, public utilities, and relevant private sector entities;

(c) Representatives of community-based organizations; and

(d) Representatives of other relevant entities as the department of information services may deem appropriate.

(3) The department of information services shall, in consultation with the work group, develop a high-speed internet deployment and adoption strategy to accomplish the following objectives:

(a) Create and regularly update a detailed, geographic information system map at the census block level of the high-speed internet services and other relevant telecommunications and information technology services owned or leased by public entities in the state with instructions on how proprietary and competitively sensitive data will be handled, stored, and used. Development of this geographic information system map may include collaboration with students and faculty at community colleges and universities in the state. The statewide inventory must, at a minimum, detail:

(i) The physical location of all high-speed internet infrastructure owned or leased by public entities;

(ii) The amount of excess capacity available; and

(iii) Whether the high-speed internet infrastructure is active or inactive;

(b) Work collaboratively with telecommunications providers and internet service providers to assess, create, and regularly update a geographic information system map at the census block level of the privately owned high-speed internet infrastructure in the state, with instructions on how proprietary and competitively sensitive data will be handled, stored, and used;

(c) Combine the geographic information system map of high-speed internet infrastructure owned by public entities with the geographic information system map of high-speed internet infrastructure owned by private entities to create and regularly update a statewide inventory of all high-speed internet infrastructure in the state;

(d) Use the geographic information system map of all high-speed internet infrastructure in the state, both public and privately owned or leased, to identify and regularly update the geographic gaps in high-speed internet service, including an assessment of the population located in each of the geographic gaps;

(e) Spur the development of high-speed internet resources in the state, which may include, but is not limited to, soliciting funding in the form of grants or donations; establishing technology literacy programs in conjunction with institutions of higher education; establishing low-cost hardware and software purchasing programs; and developing loan programs targeting small businesses or businesses located in underserved areas;

(f) Track statewide residential and business adoption of high-speed internet, computers, and related information technology, including an identification of barriers to adoption;

(g) Build and facilitate local technology planning teams and partnerships with members representing cross-sections of the community, which may include participation from the following organizations: Representatives of business, telecommunications unions, K-12 education, community colleges, local economic development organizations, health care, libraries, universities, community-based organizations, local governments, tourism, parks and recreation, and agriculture;

(h) Use the local technology planning teams and partnerships to:

(i) Conduct a needs assessment; and

(ii) Work collaboratively with high-speed internet providers and technology companies across the state to encourage deployment and use, especially in unserved areas, through use of local demand aggregation, mapping analysis, and creation of market intelligence to improve the investment rationale and business case; and

(i) Work with Washington State University extension pursuant to section 6 of this act to establish low-cost programs to improve computer ownership, technology literacy, and high-speed internet access for disenfranchised or unserved populations across the state.

(4) By September 1, 2008, the department of information services shall provide a status update to the telecommunications committees in the house of representatives and the senate, outlining the progress made to date by the work group and the issues remaining to be considered.

(5) By December 1, 2008, the department of information services shall complete the high-speed internet deployment and adoption strategy and provide a report to the fiscal and telecommunications committees in the house of representatives and the senate, the governor, and the office of financial management. The main objective of the report is to outline, based on the efforts of the work group, what legislation is

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needed in order to implement the high-speed internet deployment and adoption strategy, including a range of potential funding requests to accompany the legislation. Specifically, the report shall include the following:

(a) Benchmarks, performance measures, milestones, deliverables, timelines, and such other indicators of performance and progress as are necessary to guide development and implementation of the high-speed internet deployment and adoption strategy, both short term and long term, including an assessment of the amount of funding needed to accomplish a baseline assessment of the high-speed internet infrastructure owned by public and private entities of the state in an eighteen-month period; and

(b) Ways to structure and appropriately scale and phase development and implementation of the high-speed internet deployment and adoption strategy so as to link to, leverage, and otherwise synchronize with other relevant and related funding, technology, capital initiatives, investments, and opportunities.

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

(1) For purposes of compliance with section 2 of this act or any subsequent high-speed internet deployment and adoption initiative, the department of information services, the department of community, trade, and economic development, the utilities and transportation commission, and any other government agent or agency shall not gather or request any information related to high-speed internet infrastructure or service from providers of telecommunications or high-speed internet services that is classified by the provider as proprietary or competitively sensitive.

(2) Nothing in this section may be construed as limiting the authority of a state agency or local government to gather or request information from providers of telecommunications or high-speed internet services for other purposes pursuant to its statutory authority.

NEW SECTION. **Sec. 4.** Nothing in this act may be construed as giving the department of information services or any other entities any additional authority, regulatory or otherwise, over providers of telecommunications and information technology.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.105 RCW to read as follows:

(1) By January 1, 2009, the department, in consultation with Washington State University, shall identify and make publicly available a web directory of public facilities that provide community technology programs throughout the state.

(2) For the purposes of this section, "community technology program" has the same meaning as in section 7 of this act.

NEW SECTION. **Sec. 6.** The community technology opportunity program is created to support the efforts of community technology programs throughout the state. The community technology opportunity program must be administered by the Washington State University extension, in consultation with the department of information services. The Washington State University extension may contract for services in order to carry out the extension's obligations under this section.

(1) In implementing the community technology opportunity program the administrator must, to the extent funds are appropriated for this purpose:

(a) Provide organizational and capacity building support to community technology programs throughout the state, and identify and facilitate the availability of other public and private sources of funds to enhance the purposes of the program and the work of community technology programs. No more than fifteen percent of funds received by the administrator for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to community technology programs to provide training and skill-building opportunities; access to hardware and software; internet connectivity; assistance in the adoption of information and communication technologies in low-income and underserved areas of the state; and development of locally relevant content and delivery of vital services through technology.

(2) Grant applicants must:

(a) Provide evidence that the applicant is a nonprofit entity or a public entity that is working in partnership with a nonprofit entity;

(b) Define the geographic area or population to be served;

(c) Include in the application the results of a needs assessment addressing, in the geographic area or among the population to be served: The impact of inadequacies in technology access or knowledge, barriers faced, and services needed;

(d) Explain in detail the strategy for addressing the needs identified and an implementation plan including objectives, tasks, and benchmarks for the applicant and the role that other organizations will play in assisting the applicant's efforts;

(e) Provide evidence of matching funds and resources, which are equivalent to at least one-quarter of the grant amount committed to the applicant's strategy;

(f) Provide evidence that funds applied for, if received, will be used to provide effective delivery of community technology services in alignment with the goals of this program and to increase the applicant's level of effort beyond the current level; and

(g) Comply with such other requirements as the administrator establishes.

(3) The administrator may use no more than ten percent of funds received for the community technology opportunity program to cover administrative expenses.

(4) The administrator must establish expected program outcomes for each grant recipient and must require grant recipients to provide an annual accounting of program outcomes.

NEW SECTION. **Sec. 7.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means the community technology opportunity program administrator designated by the Washington State University extension.

(2) "Community technology program" means a program, including a digital inclusion program, engaged in diffusing information and communications technology in local communities, particularly in underserved areas. These programs may include, but are not limited to, programs that provide education and skill-building opportunities, hardware and software, internet connectivity, and development of locally relevant content and delivery of vital services through technology.

NEW SECTION. **Sec. 8.** The Washington community technology opportunity account is established in the state treasury. Donated funds from private and public sources may be deposited into the account. Expenditures from the account may be used only for the operation of the community technology opportunity program as provided in section 6 of this act. Only the administrator or the administrator's designee may authorize expenditures from the account.

NEW SECTION. **Sec. 9.** Sections 6 through 8 of this act constitute a new chapter in Title 28B RCW.

NEW SECTION. **Sec. 10.** If sections 1 through 5 of this act become null and void, the department of information services shall include high-speed internet adoption and deployment in its 2009-2011 strategic plan.

NEW SECTION. **Sec. 11.** If specific funding for the purposes of sections 1 through 5 of this act, referencing sections 1 through 5 of this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, sections 1 through 5 of this act are null and void."

Correct the title.

and the same are herewith transmitted.

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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. 6438.

Senators Kohl-Welles and Jacobsen spoke in favor of passage of 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. 6438.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6438 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6438, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6438, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brandland, Brown, Fraser and Regala - 4

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6438, 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

March 11, 2008

MR. PRESIDENT:

The House receded form its amendment, under suspension of rules ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6673 was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6673-S2.E AMH SULP H6058.2, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that high school students need to graduate with the skills necessary to be successful in college and work. The state graduation requirements help to ensure that Washington high school graduates have the basic skills to be competitive in a global economy. Under education reform started in 1993, time was to be the variable, obtaining the skills was to be the constant. Therefore, students who need additional time to gain the academic skills needed for college and the workplace should have the opportunities they need to reach high academic achievement, even if that takes more than the standard four years of high school.

Different students face different challenges and barriers to their academic success. Some students struggle to meet the standard on a single portion of the Washington assessment of student learning while excelling in the other subject areas; other students struggle to complete the necessary state or local graduation credits; while still others have their knowledge tested on the assessments and have completed all the credit requirements but are struggling because English is not their first language. The legislature finds that many of these students need additional time and support to achieve academic proficiency and meet all graduation requirements.

Sec. 2. RCW 28A.655.061 and 2007 c 355 s 5 and 2007 c 354 s 2 are each reenacted and amended to read as follows:

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

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

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

(4) Beginning no later than with the graduating class of 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement. The state board of education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in performance standards for the tenth grade assessment must comply with RCW 28A.305.130.

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

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28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

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

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

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

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

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

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

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

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

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

(iii) A student who scores at least a three on the grading scale of one to five for selected ((~~advance placement~~)) AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the ((~~advance placement~~)) AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the ((~~advance placement~~)) AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the ((~~advance placement~~)) AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

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

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

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

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

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

(iii) Any credit deficiencies;

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

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

(vi) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation((~~. If applicable, the plan shall also include the high school completion pilot program created under RCW 28B.50.534.~~

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

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

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

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

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

(x) Available programs offered through skill centers or community and technical colleges.

(b) All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington

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assessment of student learning shall have a student learning plan.

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

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

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) The extended learning opportunities program is created for eligible eleventh and twelfth grade students who are not on track to meet local or state graduation requirements as well as eighth grade students who may not be on track to meet the standard on the Washington assessment of student learning or need additional assistance in order to have the opportunity for a successful entry into high school. The program shall provide early notification of graduation status and information on education opportunities including preapprenticeship programs that are available.

(2) Under the extended learning opportunities program, districts shall make available to students in grade twelve who have failed to meet one or more local or state graduation requirements the option of continuing enrollment in the school district in accordance with RCW 28A.225.160. Districts are authorized to use basic education program funding to provide instruction to eligible students under RCW 28A.150.220(3).

(3) Under the extended learning program, instructional services for eligible students can occur during the regular school day, evenings, on weekends, or at a time and location deemed appropriate by the school district, including the educational service district, in order to meet the needs of these students. Instructional services provided under this section do not include services offered at private schools. Instructional services can include, but are not limited to, the following:

(a) Individual or small group instruction;

(b) Instruction in English language arts and/or mathematics that eligible students need to pass all or part of the Washington assessment of student learning;

(c) Attendance in a public high school or public alternative school classes or at a skill center;

(d) Inclusion in remediation programs, including summer school;

(e) Language development instruction for English language learners;

(f) Online curriculum and instructional support, including programs for credit retrieval and Washington assessment of student learning preparatory classes; and

(g) Reading improvement specialists available at the educational service districts to serve eighth, eleventh, and twelfth grade educators through professional development in accordance with RCW 28A.415.350. The reading improvement specialist may also provide direct services to eligible students and those students electing to continue a fifth year in a high school program who are still struggling with basic reading skills.

Sec. 4. RCW 28A.165.035 and 2004 c 20 s 4 are each amended to read as follows:

Use of best practices magnifies the opportunities for student success. The following are services and activities that may be supported by the learning assistance program:

(1) Extended learning time opportunities occurring:

(a) Before or after the regular school day;

(b) On Saturday; and

(c) Beyond the regular school year;

(2) Services under section 3 of this act;

(3) Professional development for certificated and classified staff that focuses on:

(a) The needs of a diverse student population;

(b) Specific literacy and mathematics content and instructional strategies; and

(c) The use of student work to guide effective instruction;

((~~(3)~~)) (4) Consultant teachers to assist in implementing effective instructional practices by teachers serving participating students;

((~~(4)~~)) (5) Tutoring support for participating students; and

((~~(5)~~)) (6) Outreach activities and support for parents of participating students.

NEW SECTION. **Sec. 5.** If funding is appropriated for this purpose, the office of the superintendent of public instruction shall explore online curriculum support in languages other than English that are currently available. By December 1, 2008, the office of the superintendent of public instruction shall report to the appropriate committees of the legislature recommendations for other online support in other languages that would most appropriately assist Washington's English language learners. Included in the recommendations shall be the actions that would need to be taken to access the recommended online support and the cost.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) If funding is appropriated for this purpose, school districts shall provide all tenth graders enrolled in the district the option of taking the PSAT at no cost to the student.

(2) The office of the superintendent of public instruction shall enter into an agreement with the firm that administers the PSAT to reimburse the firm for the testing fees of students who take the test.

NEW SECTION. **Sec. 7.** (1) The legislature intends to build on the lessons learned in the Lorraine Wojahn dyslexia pilot reading program, which the legislature has funded since 2005.

(2) By September 15, 2008, each of the grant recipients shall report to the office of the superintendent of public instruction on the lessons learned in the pilot program regarding effective assessment and intervention programs to help students with dyslexia or characteristics of dyslexia, best practices for professional development, and strategies to build capacity and sustainability among teaching staff.

(3) By December 31, 2008, the office of the superintendent of public instruction shall aggregate the reports from the grant recipients and provide a report and recommendations to the appropriate committees of the legislature. The recommendations shall include how the lessons learned through the pilot program are best shared with school districts and how the best practices can be implemented statewide.

NEW SECTION. **Sec. 8.** (1) The legislature finds that educators are faced with the complex responsibility of educating an increasing population of English language learners who speak a wide variety of languages and dialects and may come with varying levels of formal schooling, students who come from low-income households, and students who have learning disabilities. These educators struggle to provide meaningful instruction that helps students meet high content standards while overcoming their challenges. The 2007 legislature directed the professional educator standards board to begin the process of adopting new certification requirements and revising the higher education teacher preparation program requirements. Additionally, the office of the superintendent of public instruction was directed to contract with the northwest regional educational laboratory to review and report on the ongoing English as a second language pilot projects and best practices related to helping students who are English language learners. It is therefore the intent of the legislature to build upon the work started in 2007 by requiring that the professional educator standards board consider the findings of the northwest regional educational laboratory and incorporate into its ongoing work a review of how to revise the current certification requirements and teacher preparation programs in order to better serve the needs of English language learners.

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(2) The professional educator standards board shall convene a work group to develop recommendations for increasing teacher knowledge, skills, and competencies to address the needs of English language learner students. The work group shall include representatives from the Washington association of colleges for teacher education, school districts with significant populations of English language learner students who speak a single language, school districts with significant populations of English language learner students who speak multiple languages, classroom teachers, English as a second language teachers, bilingual education teachers, principals, the migrant and bilingual education office in the office of the superintendent of public instruction, and the higher education coordinating board. In making its selections, the professional educator standards board must include members from diverse cultural backgrounds and strive to promote geographic balance. The professional educator standards board shall invite participation by the northwest regional educational laboratory.

(3) The work group shall identify gaps and weaknesses in the current knowledge and skills standards for teacher preparation and teacher competencies regarding understanding how students acquire language, how to teach academic content in English to non-English speakers, and how to demonstrate cultural competence. The work group shall look to the English as a second language demonstration projects under RCW 28A.630.058 and the accompanying research and evaluation by the northwest regional educational laboratory.

(4) The work group shall submit a report by December 1, 2008, to the governor and the education and higher education committees of the legislature with findings and recommendations to improve the teacher preparation knowledge and skills standards and teacher competencies in the areas identified under subsection (2) of this section. Recommendations shall also include what professional development program components are most effective for existing educators of English language learners.

Sec. 9. RCW 28B.118.010 and 2007 c 405 s 2 are each amended to read as follows:

The higher education coordinating board shall design the Washington college bound scholarship program in accordance with this section.

(1) "Eligible students" are those students who qualify for free or reduced-price lunches. If a student qualifies in the seventh grade, the student remains eligible even if the student does not receive free or reduced-price lunches thereafter.

(2) Eligible students shall be notified of their eligibility for the Washington college bound scholarship program beginning in their seventh grade year. Students shall also be notified of the requirements for award of the scholarship.

(3) To be eligible for a Washington college bound scholarship, a student must sign a pledge during seventh or eighth grade that includes a commitment to graduate from high school with at least a C average and with no felony convictions. Students who were in the eighth grade during the 2007-08 school year may sign the pledge during the 2008-09 school year. The pledge must be witnessed by a parent or guardian and forwarded to the higher education coordinating board by mail or electronically, as indicated on the pledge form.

(4)(a) Scholarships shall be awarded to eligible students graduating from public high schools, approved private high schools under chapter 28A.195 RCW, or who received home-based instruction under chapter 28A.200 RCW.

(b) To receive the Washington college bound scholarship, a student must graduate with at least a "C" average from a public high school or an approved private high school under chapter 28A.195 RCW in Washington or have received home-based instruction under chapter 28A.200 RCW, must have no felony convictions, and must be a resident student as defined in RCW 28B.15.012(2) (a) through (d).

(5) A student's family income will be assessed upon graduation before awarding the scholarship.

(6) If at graduation from high school the student's family income does not exceed sixty-five percent of the state median family income, scholarship award amounts shall be as provided in this section.

(a) For students attending two or four-year institutions of higher education as defined in RCW 28B.10.016, the value of the award shall be (i) the difference between the student's tuition and required fees, less the value of any state-funded grant, scholarship, or waiver assistance the student receives; (ii) plus five hundred dollars for books and materials.

(b) For students attending private four-year institutions of higher education in Washington, the award amount shall be the representative average of awards granted to students in public research universities in Washington.

(c) For students attending private vocational schools in Washington, the award amount shall be the representative average of awards granted to students in public community and technical colleges in Washington.

(7) Recipients may receive no more than four full-time years' worth of scholarship awards.

(8) Institutions of higher education shall award the student all need-based and merit-based financial aid for which the student would otherwise qualify. The Washington college bound scholarship is intended to replace unmet need, loans, and, at the student's option, work-study award before any other grants or scholarships are reduced.

(9) The first scholarships shall be awarded to students graduating in 2012.

(10) The state of Washington retains legal ownership of tuition units awarded as scholarships under this chapter until the tuition units are redeemed. These tuition units shall remain separately held from any tuition units owned under chapter 28B.95 RCW by a Washington college bound scholarship recipient.

(11) The scholarship award must be used within five years of receipt. Any unused scholarship tuition units revert to the Washington college bound scholarship account.

(12) Should the recipient terminate his or her enrollment for any reason during the academic year, the unused portion of the scholarship tuition units shall revert to the Washington college bound scholarship account.

Sec. 10. RCW 28A.165.055 and 2005 c 489 s 1 are each amended to read as follows:

(1) Each school district with an approved program is eligible for state funds provided for the learning assistance program. The funds shall be appropriated for the learning assistance program in accordance with the biennial appropriations act. The distribution formula is for school district allocation purposes only. The distribution formula shall be based on one or more family income factors measuring economic need.

(2) In addition to the funds allocated to eligible school districts on the basis of family income factors, enhanced funds shall be allocated for school districts where more than twenty percent of students are eligible for and enrolled in the transitional bilingual instruction program under chapter 28A.180 RCW as provided in this subsection. The enhanced funding provided in this subsection shall take effect beginning in the 2008-09 school year.

(a) If, in the prior school year, a district's percent of October headcount student enrollment in grades kindergarten through twelve who are enrolled in the transitional bilingual instruction program, based on an average of the program headcount taken in October and May, exceeds twenty percent, twenty percent shall be subtracted from the district's percent transitional bilingual instruction program enrollment and the resulting percent shall be multiplied by the district's kindergarten through twelve annual average full-time equivalent enrollment for the prior school year.

(b) The number calculated under (a) of this subsection shall be the number of additional funded students for purposes of this

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subsection, to be multiplied by the per-funded student allocation rates specified in the omnibus appropriations act.

(c) School districts are only eligible for the enhanced funds under this subsection if their percentage of October headcount enrollment in grades kindergarten through twelve eligible for free or reduced price lunch exceeded forty percent in the prior school year.

NEW SECTION. **Sec. 11.** A new section is added to chapter 28A.310 RCW to read as follows:

Educational service districts shall develop and provide a program of outreach to community-based programs and organizations within the district that are serving non-English speaking segments of the population as well as those programs that target subgroups of students that may be struggling academically, including to the extent possible, African-American, Native American, Asian, Pacific Islander, Hispanic, low income, and special education. Educational service districts shall consult and coordinate with the governor's minority commissions and the governor's office of Indian affairs in order to efficiently conduct this outreach and are encouraged to enter into partnerships with representatives of the local business communities in order to develop a coordinated outreach plan. The purpose of the outreach activities shall be to inform students via the various community-based programs and organizations of the educational opportunities available under chapter . . ., Laws of 2008 (this act) and to engage them in the process as appropriate. Outreach shall at a minimum include information about the availability of dropout and credit retrieval programs, remediation programs, and extended learning opportunities, including fifth year opportunities.

NEW SECTION. **Sec. 12.** A new section is added to chapter 28A.300 RCW to read as follows:

Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall allocate grant funds to school districts to provide summer school funding for middle and high schools for all students to explore career opportunities rich in math, science, and technology using career and technical education as the delivery model.

NEW SECTION. **Sec. 13.** A new section is added to chapter 28A.300 RCW to read as follows:

Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall contract with a national organization to establish, maintain, and operate an endowment for the promotion of geography education in Washington state. The national organization must have experience operating geography education endowments in other states and must provide equal nonstate matching funds to the state funds provided in the contract. All funds in and any interest earned on the endowment shall be used exclusively for geography education programs including, but not limited to, curriculum materials, resource collections, and professional development institutes for teachers and administrators. The national organization must have an established affiliated advisory committee in the state to recommend local projects to be funded by the endowment. The contract shall require that the organization report annually to the superintendent on the recipients of endowment funds and the amounts and purposes of expenditures from the fund.

NEW SECTION. **Sec. 14.** Of the amounts appropriated in the omnibus appropriations act of 2008 for implementation of chapter . . . (Second Substitute Senate Bill No. 6377), Laws of 2008, referencing that act by bill or chapter number, the superintendent of public instruction shall allocate funds as follows, unless otherwise specified in the omnibus appropriations act of 2008:

(1) $1,700,000 is provided to implement section 105 of Second Substitute Senate Bill No. 6377, grants for high demand programs;

(2) $350,000 is provided to implement section 107 of Second Substitute Senate Bill No. 6377, development of model programs of study, including costs that may be incurred by the state board for community and technical colleges to be paid through interagency agreement;

(3) $400,000 is provided to implement section 201 of Second Substitute Senate Bill No. 6377, support for course equivalencies and grants for integrated curriculum;

(4) $25,000 is provided to implement section 205 of Second Substitute Senate Bill No. 6377, career and technical education collection of evidence;

(5) $150,000 is provided to implement sections 301 and 303 of Second Substitute Senate Bill No. 6377, campaign for career and technical education and navigation 101 curriculum;

(6) $50,000 is provided to implement section 302 of Second Substitute Senate Bill No. 6377, certification exam fees; and

(7) $75,000 is provided to implement section 308 of Second Substitute Senate Bill No. 6377, technical high school study."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6673.

Senator McAuliffe spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6673.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6673 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6673, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6673, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brandland, Brown, Fraser and Regala - 4

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6673, 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

March 11, 2008

MR. PRESIDENT:

Under suspension of rules ENGROSSED SUBSTITUTE SENATE BILL NO. 6776 was returned to second reading for

the purpose of an amendment. The House adopted the following amendment: 6776-S.E AMH HUNS TAYT 243, and passed the bill as amended by the House.

On page 2, line 4 of the striking amendment, after "knowingly" strike ", or reasonably ought to know, provides or reports" and insert "provides or reports, or who reasonably ought to know he or she is providing or reporting,"

On page 3, line 15 of the striking amendment, after "designees;" insert "the director, or equivalent thereof in the agency where the employee works;"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6776.

Senators Kline and Benton spoke in favor of passage 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 Engrossed Substitute Senate Bill No. 6776.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6776 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6776, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6776, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Brandland, Fraser and Regala - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 6776, 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

March 11, 2008

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

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2844,

SUBSTITUTE HOUSE BILL NO. 3149,

SECOND SUBSTITUTE HOUSE BILL NO. 3168,

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 8, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 1273 and asks Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Berkey moved that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 1273.

The President declared the question before the Senate to be motion by Senator Berkey that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 1273.

The motion by Senator Berkey carried and the Senate receded from its position in the Senate amendment(s) to Second Substitute House Bill No. 1273 by voice vote.

MOTION

On motion of Senator Berkey, the rules were suspended and Second Substitute House Bill No. 1273 was returned to second reading for the purposes of amendment.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1273, by House Committee on Insurance, Financial Services & Consumer Protection (originally sponsored by Representatives Roach, Ericks, Hurst, Kirby, Strow, Newhouse, Simpson, Williams, Haler, O'Brien, Moeller, Pearson, VanDeWege, McCune, Kenney, Rolfes and Morrell)

Authorizing fraud alert networks.

The measure was read the second time.

MOTION

Senator Berkey moved that the following striking amendment by Senators Berkey and Benton be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The financial fraud and identity theft crimes investigation and prosecution program is created in the department of community, trade, and economic development. The department shall:

(a) Appoint members of the financial fraud task forces created in subsection (2) of this section;

(b) Administer the account created in subsection (3) of this section; and

(c) By December 31st of each year submit a report to the appropriate committees of the legislature and the governor regarding the progress of the program and task forces. The report must include recommendations on changes to the program, including expansion.

(2)(a) The department shall establish two regional financial fraud and identity theft crime task forces that include a central

Puget Sound task force that includes King and Pierce counties, and a Spokane county task force. Each task force must be comprised of local law enforcement, county prosecutors, representatives of the office of the attorney general, financial institutions, and other state and local law enforcement.

(b) The department shall appoint: (i) Representatives of local law enforcement from a list provided by the Washington association of sheriffs and police chiefs; (ii) representatives of county prosecutors from a list provided by the Washington association of prosecuting attorneys; and (iii) representatives of financial institutions.

(c) Each task force shall:

(i) Hold regular meetings to discuss emerging trends and threats of local financial fraud and identity theft crimes;

(ii) Set priorities for the activities for the task force;

(iii) Apply to the department for funding to (A) hire prosecutors and/or law enforcement personnel dedicated to investigating and prosecuting financial fraud and identity theft crimes; and (B) acquire other needed resources to conduct the work of the task force;

(iv) Establish outcome-based performance measures; and

(v) Twice annually report to the department regarding the activities and performance of the task force.

(3) The financial fraud and identity theft crimes investigation and prosecution account is created in the state treasury. Moneys in the account may be spent only after appropriation. Revenue to the account may include appropriations, revenues generated by the surcharge imposed in section 2 of this act, federal funds, and any other gifts or grants. Expenditures from the account may be used only to support the activities of the financial fraud and identity theft crime investigation and prosecution task forces and the program administrative expenses of the department, which may not exceed ten percent of the amount appropriated.

(4) For purposes of this section, "financial fraud and identity theft crimes" includes those that involve: Check fraud, chronic unlawful issuance of bank checks, embezzlement, credit/debit card fraud, identity theft, forgery, counterfeit instruments such as checks or documents, organized counterfeit check rings, and organized identification theft rings.

Sec. 2. RCW 62A.9A-525 and 2000 c 250 s 9A-525 are each amended to read as follows:

(a) **Filing with department of licensing.** Except as otherwise provided in subsection (b) or (e) of this section, the fee for filing and indexing a record under this part is the fee set by department of licensing rule pursuant to subsection (f) of this section. Without limitation, different fees may be charged for:

(1) A record that is communicated in writing and consists of one or two pages;

(2) A record that is communicated in writing and consists of more than two pages, which fee may be a multiple of the fee described in (1) of this subsection; and

(3) A record that is communicated by another medium authorized by department of licensing rule, which fee may be a fraction of the fee described in (1) of this subsection.

(b) **Filing with other filing offices.** Except as otherwise provided in subsection (e) of this section, the fee for filing and indexing a record under this part that is filed in a filing office described in RCW 62A.9A-501(a)(1) is the fee that would otherwise be applicable to the recording of a mortgage in that filing office, as set forth in RCW 36.18.010.

(c) **Number of names.** The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b) of this section.

(d) **Response to information request.** The fee for responding to a request for information from a filing office, including for issuing a certificate showing, or otherwise communicating, whether there is on file any financing statement naming a particular debtor, is the fee set by department of licensing rule pursuant to subsection (f) of this section; provided however, if the request is to a filing office described in RCW 62A.9A-501(a)(1) and that office charges a different fee, then that different fee shall apply instead. Without limitation, different fees may be charged:

(1) If the request is communicated in writing;

(2) If the request is communicated by another medium authorized by filing-office rule; and

(3) If the request is for expedited service.

(e) **Record of mortgage.** This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under RCW 62A.9A-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) **Filing office rules.** (1) The department of licensing shall by rule set the fees called for in this section for filing with, and obtaining information from, the department of licensing. The director shall set fees at a sufficient level to defray the costs of administering the program. All receipts from fees collected under this title, except fees for services covered under RCW 62A.9A-501(a)(1), shall be deposited to the uniform commercial code fund in the state treasury. Moneys in the fund may be spent only after appropriation and may be used only to administer the uniform commercial code program.

(2) In addition to fees on filings authorized under this section, the department of licensing shall impose a surcharge of eight dollars per filing for paper filings and a surcharge of three dollars per filing for electronic filings. The department shall deposit the proceeds from these surcharges in the financial fraud and identity theft crimes investigation and prosecution account created in section 1 of this act.

(g) **Transition.** This section continues the fee-setting authority conferred on the department of licensing by former RCW 62A.9-409 and nothing herein shall invalidate fees set by the department of licensing under the authority of former RCW 62A.9-409.

NEW SECTION. **Sec. 3.** The sum of four hundred eighty-eight thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 2009, from the financial fraud and identity theft crimes investigation and prosecution account to the department of community, trade, and economic development for the purposes of this act.

NEW SECTION. **Sec. 4.** This act expires July 1, 2015."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Berkey and Benton to Second Substitute House Bill No. 1273.

The motion by Senator Berkey 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 "fraud;" strike the remainder of the title and insert "amending RCW 62A.9A-525; adding a new section to chapter 43.330 RCW; making an appropriation; and providing an expiration date."

MOTION

On motion of Senator Berkey, the rules were suspended, Second Substitute House Bill No. 1273 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 Berkey and Benton spoke in favor of passage of the bill.

Draft

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1273 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1273 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 Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Brandland, Fraser and Regala - 3

SECOND SUBSTITUTE HOUSE BILL NO. 1273 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:
ENGROSSED SUBSTITUTE SENATE BILL NO. 5010,
SUBSTITUTE SENATE BILL NO. 5254,
ENGROSSED SENATE BILL NO. 5751,
SENATE BILL NO. 5878,
SUBSTITUTE SENATE BILL NO. 6195,
SECOND SUBSTITUTE SENATE BILL NO. 6206,
SENATE BILL NO. 6313,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6333,
SUBSTITUTE SENATE BILL NO. 6339,
ENGROSSED SENATE BILL NO. 6357,
SECOND SUBSTITUTE SENATE BILL NO. 6377,
SUBSTITUTE SENATE BILL NO. 6389,
SENATE BILL NO. 6421,
SECOND SUBSTITUTE SENATE BILL NO. 6468,
SECOND SUBSTITUTE SENATE BILL NO. 6483
SUBSTITUTE SENATE BILL NO. 6510,
SUBSTITUTE SENATE BILL NO. 6527,
SUBSTITUTE SENATE BILL NO. 6556,
SUBSTITUTE SENATE BILL NO. 6583,
SENATE BILL NO. 6722,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6809,
SENATE BILL NO. 6818,
ENGROSSED SENATE BILL NO. 6821,
SENATE BILL NO. 6839,

MESSAGE FROM THE HOUSE

March 11, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to HOUSE BILL NO. 2263 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 in the Senate amendment(s) to House Bill No. 2263.

The President declared the question before the Senate to be motion by Senator Rockefeller that the Senate recede from its position in the Senate amendment(s) to House Bill No. 2263.

The motion by Senator Rockefeller carried and the Senate receded from its position in the Senate amendment(s) to House Bill No. 2263 by voice vote.

MOTION

On motion of Senator Rockefeller, the rules were suspended and House Bill No. 2263 was returned to second reading for the purposes of amendment.

SECOND READING

HOUSE BILL NO. 2263, by Representatives Blake, Moeller, Orcutt and Newhouse

Regarding the phosphorus content in dishwashing detergent.

The measure was read the second time.

MOTION

Senator Spanel moved that the following striking amendment by Senators Spanel and Brandland be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.95L.020 and 2006 c 223 s 2 are each amended to read as follows:

(1) After July 1, 1994, a person may not sell or distribute for sale a laundry detergent that contains 0.5 percent or more phosphorus by weight.

(2)(a) After July 1, 1994, and until the dates specified in ((~~(b) of~~)) this subsection, a person may not sell or distribute for sale a dishwashing detergent that contains 8.7 percent or more ((~~phosphorous [phosphorus]~~)) phosphorus by weight.

(b) Beginning July 1, 2008, in counties located east of the crest of the Cascade mountains with populations greater than four hundred thousand, as determined by office of financial management population estimates, a person may not sell or distribute for sale a dishwashing detergent that contains 0.5 percent or more phosphorus by weight((~~:~~

~~(i) Commencing~~)).

(c) From July 1, 2008, to June 30, 2010, in counties located west of the crest of the Cascade mountains with populations((~~,~~ ~~as determined by office of financial management population estimates:~~

~~(A)~~)) greater than one hundred eighty thousand and less than two hundred twenty thousand((~~; and~~

~~(B) Greater than three hundred ninety thousand and less than six hundred fifty thousand;~~)), as determined by office of financial management population estimates, a person may not sell or distribute for sale a dishwashing detergent that contains 0.5 percent or more phosphorus by weight except in a single-use package containing no more than 2.0 grams of phosphorus.

((~~(ii) Commencing~~)) (d) Beginning July 1, 2010, ((~~throughout~~)) a person may not sell or distribute for sale a dishwashing detergent that contains 0.5 percent or more phosphorus by weight in the state.

(e) For purposes of this section, "single-use package" means a tablet or other form of dishwashing detergent that is constituted and intended for use in a single washing.

(3) This section does not apply to the sale or distribution of detergents for commercial and industrial uses."

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

Draft

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Spanel and Brandland to House Bill No. 2263.

The motion by Senator Spanel 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 "detergent;" strike the remainder of the title and insert "and amending RCW 70.95L.020."

MOTION

On motion of Senator Rockefeller, the rules were suspended, House Bill No. 2263 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 House Bill No. 2263 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2263 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 Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Voting nay: Senators Brown and Marr - 2

HOUSE BILL NO. 2263 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

March 10, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2624 and asks 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 in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 2624.

The President declared the question before the Senate to be motion by Senator Fairley that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 2624.

The motion by Senator Fairley carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 2624 by voice vote.

MOTION

On motion of Senator Fairley, the rules were suspended and Engrossed Second Substitute House Bill No. 2624 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2624, by House Committee on Appropriations (originally sponsored by Representatives McCoy, Kessler, Appleton, Ormsby, VanDeWege, Hunt, Kenney, Darneille and Chase)

Concerning human remains.

The measure was read the second time.

MOTION

Senator Fairley moved that the following striking amendment by Senators Fairley, Hewitt and Roach be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 68.50 RCW to read as follows:

(1) It is the duty of every person who knows of the existence and location of skeletal human remains to notify the coroner and local law enforcement in the most expeditious manner possible, unless such person has good reason to believe that such notice has already been given. Any person knowing of the existence of skeletal human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice to the coroner and local law enforcement, is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination of whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such human remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the

remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of such nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are:

(i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;

(ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and

(iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

(5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe.

NEW SECTION. **Sec. 2.** A new section is added to chapter 27.44 RCW to read as follows:

(1) Any person who discovers skeletal human remains must notify the coroner and local law enforcement in the most expeditious manner possible. Any person knowing of the existence of human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice thereof is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of such nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are:

(i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;

(ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and

(iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

(5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe.

NEW SECTION. **Sec. 3.** A new section is added to chapter 68.60 RCW to read as follows:

(1) Any person who discovers skeletal human remains shall notify the coroner and local law enforcement in the most expeditious manner possible. Any person knowing of the existence of skeletal human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice thereof is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

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(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of such nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of such nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are:

(i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;

(ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and

(iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

(5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.334 RCW to read as follows:

(1) The director shall appoint a state physical anthropologist. At a minimum, the state physical anthropologist must have a doctorate in either archaeology or anthropology and have experience in forensic osteology or other relevant aspects of physical anthropology and must have at least one year of experience in laboratory reconstruction and analysis. A medical degree with archaeological experience in addition to the experience required may substitute for a doctorate in archaeology or anthropology.

(2) The state physical anthropologist has the primary responsibility of investigating, preserving, and, when necessary, removing and reinterring discoveries of nonforensic skeletal human remains. The state physical anthropologist is available to any local governments or any federally recognized tribal government within the boundaries of Washington to assist in determining whether discovered skeletal human remains are forensic or nonforensic.

(3) The director shall hire staff as necessary to support the state physical anthropologist to meet the objectives of this section.

(4) For the purposes of this section, "forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

Sec. 5. RCW 27.53.030 and 2005 c 333 s 20 are each amended to read as follows:

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

(1) "Archaeology" means systematic, scientific study of man's past through material remains.

(2) "Archaeological object" means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products.

(3) "Archaeological site" means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(4) "Department" means the department of archaeology and historic preservation, created in chapter 43.334 RCW.

(5) "Director" means the director of the department of archaeology and historic preservation, created in chapter 43.334 RCW.

(6) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(7) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(8) "Professional archaeologist" means a person ((~~who has met the educational, training, and experience requirements of the society of professional archaeologists.~~

~~(9) "Qualified archaeologist" means a person who has had formal training and/or experience in archaeology over a period of at least three years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists~~)) with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior's standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

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((~~10~~)) (9) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

((~~11~~)) (10) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

NEW SECTION. **Sec. 6.** A new section is added to chapter 27.34 RCW to read as follows:

The department of archaeology and historic preservation shall develop and maintain a centralized database and geographic information systems spatial layer of all known cemeteries and known sites of burials of human remains in Washington state. The information in the database is subject to public disclosure, except as provided in RCW 42.56.300; exempt information is available by confidentiality agreement to federal, state, and local agencies for purposes of environmental review, and to tribes in order to participate in environmental review, protect their ancestors, and perpetuate their cultures.

Information provided to state and local agencies under this section is subject to public disclosure, except as provided in RCW 42.56.300.

NEW SECTION. **Sec. 7.** A new section is added to chapter 43.334 RCW to read as follows:

The skeletal human remains assistance account is created in the custody of the state treasurer. All appropriations provided by the legislature for this purpose as well as any reimbursement for services provided pursuant to this act must be deposited in the account. Expenditures from the account may be used only for archaeological determinations and excavations of inadvertently discovered skeletal human remains, and removal and reinterment of such remains when necessary. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 8.** The department of archaeology and historic preservation must communicate with the appropriate committees of the legislature by November 15, 2009, and biennially thereafter, regarding the numbers of inadvertent discoveries of skeletal human remains and other associated activities pursuant to this act.

NEW SECTION. **Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

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

Senator Honeyford spoke against adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Fairley, Hewitt and Roach to Engrossed Second Substitute House Bill No. 2624.

The motion by Senator Fairley 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 "remains;" strike the remainder of the title and insert "amending RCW 27.53.030; adding a new section to chapter 68.50 RCW; adding a new section to chapter 27.44 RCW; adding a new section to chapter 68.60 RCW; adding new sections to chapter 43.334 RCW; adding a new section to chapter 27.34 RCW; creating new sections; and prescribing penalties."

MOTION

On motion of Senator Fairley, the rules were suspended, Engrossed Second Substitute House Bill No. 2624 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 Fairley and Haugen 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. 2624 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2624 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 44; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 44

Voting nay: Senators Hewitt, Holmquist, Honeyford, King and Schoesler - 5

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2624 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 Honeyford: “Thank you Mr. President. In my previous speech in opposition to this bill I didn’t want to imply there’s nothing good in it because there are a lot of good things in it. My opposition was it just didn’t have an end line. Thank you.”

MESSAGE FROM THE HOUSE

March 8, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to HOUSE BILL NO. 2719 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 in the Senate amendment(s) to House Bill No. 2719.

The President declared the question before the Senate to be motion by Senator Kline that the Senate recede from its position in the Senate amendment(s) to House Bill No. 2719.

The motion by Senator Kline carried and the Senate receded from its position in the Senate amendment(s) to House Bill No. 2719 by voice vote.

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MOTION

On motion of Senator Kline, the rules were suspended and House Bill No. 2719 was returned to second reading for the purposes of amendment.

SECOND READING

HOUSE BILL NO. 2719, by Representatives Priest, Hurst, Loomis and VanDeWege

Ensuring that offenders receive accurate sentences.

The measure was read the second time.

MOTION

Senator Kline moved that the following striking amendment by Senators Kline, Hargrove and McCaslin be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** It is the legislature's intent to ensure that offenders receive accurate sentences that are based on their actual, complete criminal history. Accurate sentences further the sentencing reform act's goals of:

(1) Ensuring that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history;

(2) Ensuring punishment that is just; and

(3) Ensuring that sentences are commensurate with the punishment imposed on others for committing similar offenses.

Given the decisions in *In re Cadwallader*, 155 Wn.2d 867 (2005); *State v. Lopez*, 147 Wn.2d 515 (2002); *State v. Ford*, 137 Wn.2d 472 (1999); and *State v. McCorkle*, 137 Wn.2d 490 (1999), the legislature finds it is necessary to amend the provisions in RCW 9.94A.500, 9.94A.525, and 9.94A.530 in order to ensure that sentences imposed accurately reflect the offender's actual, complete criminal history, whether imposed at sentencing or upon resentencing. These amendments are consistent with the United States supreme court holding in *Monge v. California*, 524 U.S. 721 (1998), that double jeopardy is not implicated at resentencing following an appeal or collateral attack.

Sec. 2. RCW 9.94A.500 and 2006 c 339 s 303 are each amended to read as follows:

(1) Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing.

Except in cases where the defendant shall be sentenced to a term of total confinement for life without the possibility of release or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, the court may order the department to complete a risk assessment report. If available before sentencing, the report shall be provided to the court.

Unless specifically waived by the court, the court shall order the department to complete a chemical dependency screening report before imposing a sentence upon a defendant who has been convicted of a violation of the uniform controlled substances act under chapter 69.50 RCW, a criminal solicitation to commit such a violation under chapter 9A.28 RCW, or any felony where the court finds that the offender has a chemical dependency that has contributed to his or her offense. In addition, the court shall, at the time of plea or conviction, order the department to complete a presentence report before imposing a sentence upon a defendant who has been convicted of a felony sexual offense. The department of corrections shall give priority to presentence investigations for sexual offenders. If the court determines that the defendant may be a mentally ill person as defined in RCW 71.24.025, although the defendant has not established that at the time of the crime he or she lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime, the court shall order the department to complete a presentence report before imposing a sentence.

The court shall consider the risk assessment report and presentence reports, if any, including any victim impact statement and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim, the survivor of the victim, or a representative of the victim or survivor, and an investigative law enforcement officer as to the sentence to be imposed.

A criminal history summary relating to the defendant from the prosecuting authority or from a state, federal, or foreign governmental agency shall be prima facie evidence of the existence and validity of the convictions listed therein. If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. Copies of all risk assessment reports and presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department. Court clerks shall provide, without charge, certified copies of documents relating to criminal convictions requested by prosecuting attorneys.

(2) To prevent wrongful disclosure of information related to mental health services, as defined in RCW 71.05.445 and 71.34.345, a court may take only those steps necessary during a sentencing hearing or any hearing in which the department presents information related to mental health services to the court. The steps may be taken on motion of the defendant, the prosecuting attorney, or on the court's own motion. The court may seal the portion of the record relating to information relating to mental health services, exclude the public from the hearing during presentation or discussion of information relating to mental health services, or grant other relief to achieve the result intended by this subsection, but nothing in this subsection shall be construed to prevent the subsequent release of information related to mental health services as authorized by RCW 71.05.445, 71.34.345, or 72.09.585. Any person who otherwise is permitted to attend any hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded from the hearing solely because the department intends to disclose or discloses information related to mental health services.

Sec. 3. RCW 9.94A.525 and 2007 c 199 s 8 and 2007 c 116 s 1 are each reenacted and amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive

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years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions of felony driving while under the influence of intoxicating liquor or any drug, felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, and serious traffic offenses shall be included in the offender score if: (i) The prior convictions were committed within five years since the last date of release from confinement (including full-time residential treatment) or entry of judgment and sentence; or (ii) the prior convictions would be considered "prior offenses within ten years" as defined in RCW 46.61.5055.

(f) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and ½ point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and ½ point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and ½ point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and ½ point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and ½ point for each juvenile prior conviction; count one point for each adult and ½ point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult and ½ point for each juvenile prior conviction; count one point for each adult and ½ point for each juvenile prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(13) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as ½ point.

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(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as ½ point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130((~~(10)~~)) (11), count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction, excluding prior convictions for failure to register as a sex offender under RCW 9A.44.130((~~(10)~~)) (11), which shall count as one point.

(19) If the present conviction is for an offense committed while the offender was under community ((~~placement~~)) custody, add one point. For purposes of this subsection, community custody includes community placement or postrelease supervision, as defined in chapter 9.-- RCW (the new chapter created in section 56 of this act).

(20) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in subsections (7) through (18) of this section; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

(21) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. ((~~Accordingly,~~)) Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence.

Sec. 4. RCW 9.94A.530 and 2005 c 68 s 2 are each amended to read as follows:

(1) The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the standard sentence range (see RCW 9.94A.510, (Table 1) and RCW 9.94A.517, (Table 3)). The additional time for deadly weapon findings or for other adjustments as specified in RCW 9.94A.533 shall be added to the entire standard sentence range. The court may impose any sentence within the range that it deems appropriate. All standard sentence ranges are expressed in terms of total confinement.

(2) In determining any sentence other than a sentence above the standard range, the trial court may rely on no more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing, or proven pursuant to RCW 9.94A.537. Acknowledgment includes not objecting to information stated in the presentence reports and not objecting to criminal history presented at the time of sentencing. Where the defendant disputes material facts, the court must either not consider the fact or grant an evidentiary hearing on the point. The facts shall be deemed proved at the hearing by a preponderance of the evidence, except as otherwise specified in RCW 9.94A.537. On remand for resentencing following appeal or collateral attack, the parties shall have the opportunity to present and the court to consider all relevant evidence regarding criminal history, including criminal history not previously presented.

(3) In determining any sentence above the standard sentence range, the court shall follow the procedures set forth in RCW 9.94A.537. Facts that establish the elements of a more serious crime or additional crimes may not be used to go outside the standard sentence range except upon stipulation or when specifically provided for in RCW 9.94A.535((~~(2)~~)) (3) (d), (e), (g), and (h).

NEW SECTION. **Sec. 5.** Sections 2 and 3 of this act apply to all sentencings and resentencings commenced before, on, or after the effective date of sections 1 through 4 of this act.

NEW SECTION. **Sec. 6.** The existing sentencing reform act contains numerous provisions for supervision of different types of offenders. This duplication has caused great confusion for judges, lawyers, offenders, and the department of corrections, and often results in inaccurate sentences. The clarifications in this act are intended to support continued discussions by the sentencing guidelines commission with the courts and the criminal justice community to identify and propose policy changes that will further simplify and improve the sentencing reform act relating to the supervision of offenders. The sentencing guidelines commission shall submit policy change proposals to the legislature on or before December 1, 2008.

Sections 7 through 58 of this act are intended to simplify the supervision provisions of the sentencing reform act and increase the uniformity of its application. These sections are not intended to either increase or decrease the authority of sentencing courts or the department relating to supervision, except for those provisions instructing the court to apply the provisions of the current community custody law to offenders sentenced after July 1, 2009, but who committed their crime prior to the effective date of this section to the extent that such application is constitutionally permissible.

This will effect a change for offenders who committed their crimes prior to the offender accountability act, chapter 196, Laws of 1999. These offenders will be ordered to a term of community custody rather than community placement or community supervision. To the extent constitutionally permissible, the terms of the offender's supervision will be as provided in current law. With the exception of this change, the legislature does not intend to make, and no provision of sections 7 through 58 of this act may be construed as making, a substantive change to the supervision provisions of the sentencing reform act.

It is the intent of the legislature to reaffirm that section 3, chapter 379, Laws of 2003, expires July 1, 2010.

NEW SECTION. **Sec. 7.** A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender is sentenced to the custody of the department for one of the following crimes, the court shall impose a term of community custody for the community custody range established under RCW 9.94A.850 or up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer:

(a) A sex offense not sentenced under RCW 9.94A.712;

(b) A violent offense;

(c) A crime against persons under RCW 9.94A.411(2);

(d) A felony offender under chapter 69.50 or 69.52 RCW.

(2) If an offender is sentenced to a term of confinement of one year or less for a violation of RCW 9A.44.130(11)(a), the court shall impose a term of community custody for the community custody range established under RCW 9.94A.850 or

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up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer.

(3) If an offender is sentenced under the drug offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.660.

(4) If an offender is sentenced under the special sexual offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.670.

(5) If an offender is sentenced to a work ethic camp, the court shall impose community custody as provided in RCW 9.94A.690.

(6) If a sex offender is sentenced as a nonpersistent offender pursuant to RCW 9.94A.712, the court shall impose community custody as provided in that section.

NEW SECTION. **Sec. 8.** A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender is sentenced to a term of confinement for one year or less for one of the following offenses, the court may impose up to one year of community custody:

(a) A sex offense, other than failure to register under RCW 9A.44.130(1);

(b) A violent offense;

(c) A crime against a person under RCW 9.94A.411; or

(d) A felony violation of chapter 69.50 or 69.52 RCW, or an attempt, conspiracy, or solicitation to commit such a crime.

(2) If an offender is sentenced to a first-time offender waiver, the court may impose community custody as provided in RCW 9.94A.650.

NEW SECTION. **Sec. 9.** A new section is added to chapter 9.94A RCW to read as follows:

When a court sentences a person to a term of community custody, the court shall impose conditions of community custody as provided in this section.

(1) **Mandatory conditions.** As part of any term of community custody, the court shall:

(a) Require the offender to inform the department of court-ordered treatment upon request by the department;

(b) Require the offender to comply with any conditions imposed by the department under section 10 of this act;

(c) If the offender was sentenced under RCW 9.94A.712 for an offense listed in RCW 9.94A.712(1)(a), and the victim of the offense was under eighteen years of age at the time of the offense, prohibit the offender from residing in a community protection zone.

(2) **Waivable conditions.** Unless waived by the court, as part of any term of community custody, the court shall order an offender to:

(a) Report to and be available for contact with the assigned community corrections officer as directed;

(b) Work at department-approved education, employment, or community restitution, or any combination thereof;

(c) Refrain from possessing or consuming controlled substances except pursuant to lawfully issued prescriptions;

(d) Pay supervision fees as determined by the department; and

(e) Obtain prior approval of the department for the offender's residence location and living arrangements.

(3) **Discretionary conditions.** As part of any term of community custody, the court may order an offender to:

(a) Remain within, or outside of, a specified geographical boundary;

(b) Refrain from direct or indirect contact with the victim of the crime or a specified class of individuals;

(c) Participate in crime-related treatment or counseling services;

(d) Participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community;

(e) Refrain from consuming alcohol; or

(f) Comply with any crime-related prohibitions.

(4) **Special conditions.**

(a) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may order the offender to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

(b)(i) In sentencing an offender convicted of an alcohol or drug related traffic offense, the court shall require the offender to complete a diagnostic evaluation by an alcohol or drug dependency agency approved by the department of social and health services or a qualified probation department, defined under RCW 46.61.516, that has been approved by the department of social and health services. If the offense was pursuant to chapter 46.61 RCW, the report shall be forwarded to the department of licensing. If the offender is found to have an alcohol or drug problem that requires treatment, the offender shall complete treatment in a program approved by the department of social and health services under chapter 70.96A RCW. If the offender is found not to have an alcohol or drug problem that requires treatment, the offender shall complete a course in an information school approved by the department of social and health services under chapter 70.96A RCW. The offender shall pay all costs for any evaluation, education, or treatment required by this section, unless the offender is eligible for an existing program offered or approved by the department of social and health services.

(ii) For purposes of this section, "alcohol or drug related traffic offense" means the following: Driving while under the influence as defined by RCW 46.61.502, actual physical control while under the influence as defined by RCW 46.61.504, vehicular homicide as defined by RCW 46.61.520(1)(a), vehicular assault as defined by RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

(iii) This subsection (4)(b) does not require the department of social and health services to add new treatment or assessment facilities nor affect its use of existing programs and facilities authorized by law.

NEW SECTION. **Sec. 10.** A new section is added to chapter 9.94A RCW to read as follows:

(1) Every person who is sentenced to a period of community custody shall report to and be placed under the supervision of the department, subject to RCW 9.94A.501.

(2)(a) The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of community custody based upon the risk to community safety.

(b) Within the funds available for community custody, the department shall determine conditions and duration of community custody on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection (2)(b).

(3) If the offender is supervised by the department, the department shall at a minimum instruct the offender to:

(a) Report as directed to a community corrections officer;

(b) Remain within prescribed geographical boundaries;

(c) Notify the community corrections officer of any change in the offender's address or employment;

(d) Pay the supervision fee assessment; and

(e) Disclose the fact of supervision to any mental health or chemical dependency treatment provider, as required by RCW 9.94A.722.

(4) The department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws.

(5) If the offender was sentenced pursuant to a conviction for a sex offense, the department may impose electronic monitoring. Within the resources made available by the department for this purpose, the department shall carry out any

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electronic monitoring using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning system technology.

(6) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court imposed conditions.

(7)(a) The department shall notify the offender in writing of any additional conditions or modifications.

(b) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to the crime of conviction, the offender's risk of reoffending, or the safety of the community.

(8) The department may require offenders to pay for special services rendered including electronic monitoring, day reporting, and telephone reporting, dependent on the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(9)(a) When a sex offender has been sentenced pursuant to RCW 9.94A.712, the board shall exercise the authority prescribed in RCW 9.95.420 through 9.95.435.

(b) The department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions based upon the risk to community safety. The board must consider and may impose department-recommended conditions.

(c) If the department finds that an emergency exists requiring the immediate imposition of additional conditions in order to prevent the offender from committing a crime, the department may impose such conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately after notice to the offender by personal service, but shall not remain in effect longer than seven working days unless approved by the board.

(10) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

NEW SECTION. **Sec. 11.** A new section is added to chapter 9.94A RCW to read as follows:

No offender sentenced to a term of community custody under the supervision of the department may own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the violation process and sanctions under sections 15 and 21 of this act and RCW 9.94A.737.

"Constructive possession" as used in this section means the power and intent to control the firearm or ammunition. "Firearm" as used in this section has the same definition as in RCW 9.41.010.

NEW SECTION. **Sec. 12.** A new section is added to chapter 9.94A RCW to read as follows:

(1) Community custody shall begin: (a) Upon completion of the term of confinement; (b) at such time as the offender is transferred to community custody in lieu of earned release in accordance with RCW 9.94A.728 (1) or (2); or (c) at the time of sentencing if no term of confinement is ordered.

(2) When an offender is sentenced to community custody, the offender is subject to the conditions of community custody as of the date of sentencing, unless otherwise ordered by the court.

(3) When an offender is sentenced to a community custody range pursuant to section 7 (1) or (2) of this act, the department shall discharge the offender from community custody on a date determined by the department, which the department may modify, based on risk and performance of the offender, within the range or at the end of the period of earned release, whichever is later.

NEW SECTION. **Sec. 13.** A new section is added to chapter 9.94A RCW to read as follows:

(1) When an offender is under community custody, the community corrections officer may obtain information from the offender's mental health treatment provider on the offender's status with respect to evaluation, application for services, registration for services, and compliance with the supervision plan, without the offender's consent, as described under RCW 71.05.630.

(2) An offender under community custody who is civilly detained under chapter 71.05 RCW, and subsequently discharged or conditionally released to the community, shall be under the supervision of the department for the duration of his or her period of community custody. During any period of inpatient mental health treatment that falls within the period of community custody, the inpatient treatment provider and the supervising community corrections officer shall notify each other about the offender's discharge, release, and legal status, and shall share other relevant information.

NEW SECTION. **Sec. 14.** A new section is added to chapter 9.94A RCW to read as follows:

(1) At any time prior to the completion or termination of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions of community custody for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody.

(2) If a violation of a condition extended under this section occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.631 and may be punishable as contempt of court as provided for in RCW 7.21.040.

(3) If the court extends a condition beyond the expiration of the term of community custody, the department is not responsible for supervision of the offender's compliance with the condition.

NEW SECTION. **Sec. 15.** A new section is added to chapter 9.94A RCW to read as follows:

(1)(a) An offender who violates any condition or requirement of a sentence may be sanctioned with up to sixty days' confinement for each violation.

(b) In lieu of confinement, an offender may be sanctioned with work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(2) If an offender was under community custody pursuant to one of the following statutes, the offender may be sanctioned as follows:

(a) If the offender was transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.728(2), the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(b) If the offender was sentenced under the drug offender sentencing alternative set out in RCW 9.94A.660, the offender may be sanctioned in accordance with that section.

(c) If the offender was sentenced under the special sexual offender sentencing alternative set out in RCW 9.94A.670, the suspended sentence may be revoked and the offender committed to serve the original sentence of confinement.

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(d) If the offender was sentenced to a work ethic camp pursuant to RCW 9.94A.690, the offender may be reclassified to serve the unexpired term of his or her sentence in total confinement.

(e) If a sex offender was sentenced pursuant to RCW 9.94A.712, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

NEW SECTION. **Sec. 16.** A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender has not completed his or her maximum term of total confinement and is subject to a third violation hearing pursuant to RCW 9.94A.737 for any violation of community custody and is found to have committed the violation, the department shall return the offender to total confinement in a state correctional facility to serve up to the remaining portion of his or her sentence, unless it is determined that returning the offender to a state correctional facility would substantially interfere with the offender's ability to maintain necessary community supports or to participate in necessary treatment or programming and would substantially increase the offender's likelihood of reoffending.

(2) The department may work with the Washington association of sheriffs and police chiefs to establish and operate an electronic monitoring program for low-risk offenders who violate the terms of their community custody.

(3) Local governments, their subdivisions and employees, the department and its employees, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving low-risk offenders who are placed on electronic monitoring unless it is shown that an employee acted with gross negligence or bad faith.

NEW SECTION. **Sec. 17.** A new section is added to chapter 9.94A RCW to read as follows:

(1) If a sanction of confinement is imposed by the court, the following applies:

(a) If the sanction was imposed pursuant to section 15(1) of this act, the sanction shall be served in a county facility.

(b) If the sanction was imposed pursuant to section 15(2) of this act, the sanction shall be served in a state facility.

(2) If a sanction of confinement is imposed by the department, and if the offender is an inmate as defined by RCW 72.09.015, no more than eight days of the sanction, including any credit for time served, may be served in a county facility. The balance of the sanction shall be served in a state facility. In computing the eight-day period, weekends and holidays shall be excluded. The department may negotiate with local correctional authorities for an additional period of detention.

(3) If a sanction of confinement is imposed by the board, it shall be served in a state facility.

(4) Sanctions imposed pursuant to RCW 9.94A.670(3) shall be served in a county facility.

(5) As used in this section, "county facility" means a facility operated, licensed, or utilized under contract by the county, and "state facility" means a facility operated, licensed, or utilized under contract by the state.

NEW SECTION. **Sec. 18.** A new section is added to chapter 9.94A RCW to read as follows:

The procedure for imposing sanctions for violations of sentence conditions or requirements is as follows:

(1) If the offender was sentenced under the drug offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.660.

(2) If the offender was sentenced under the special sexual offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.670.

(3) If a sex offender was sentenced pursuant to RCW 9.94A.712, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

(4) In any other case, if the offender is being supervised by the department, any sanctions shall be imposed by the department pursuant to RCW 9.94A.737.

(5) If the offender is not being supervised by the department, any sanctions shall be imposed by the court pursuant to section 19 of this act.

NEW SECTION. **Sec. 19.** A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender violates any condition or requirement of a sentence, and the offender is not being supervised by the department, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.

(2) If an offender fails to comply with any of the conditions or requirements of a sentence the following provisions apply:

(a) The court, upon the motion of the state, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(b) The state has the burden of showing noncompliance by a preponderance of the evidence;

(c) If the court finds that a violation has been proved, it may impose the sanctions specified in section 15(1) of this act. Alternatively, the court may:

(i) Convert a term of partial confinement to total confinement;

(ii) Convert community restitution obligation to total or partial confinement; or

(iii) Convert monetary obligations, except restitution and the crime victim penalty assessment, to community restitution hours at the rate of the state minimum wage as established in RCW 49.46.020 for each hour of community restitution;

(d) If the court finds that the violation was not willful, the court may modify its previous order regarding payment of legal financial obligations and regarding community restitution obligations; and

(e) If the violation involves a failure to undergo or comply with a mental health status evaluation and/or outpatient mental health treatment, the court shall seek a recommendation from the treatment provider or proposed treatment provider. Enforcement of orders concerning outpatient mental health treatment must reflect the availability of treatment and must pursue the least restrictive means of promoting participation in treatment. If the offender's failure to receive care essential for health and safety presents a risk of serious physical harm or probable harmful consequences, the civil detention and commitment procedures of chapter 71.05 RCW shall be considered in preference to incarceration in a local or state correctional facility.

(3) Any time served in confinement awaiting a hearing on noncompliance shall be credited against any confinement ordered by the court.

(4) Nothing in this section prohibits the filing of escape charges if appropriate.

Sec. 20. RCW 9.94A.737 and 2007 c 483 s 305 are each amended to read as follows:

(1) ((~~If an offender violates any condition or requirement of community custody, the department may transfer the offender to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation and subject to the limitations of subsection (3) of this section.~~

~~(2) If an offender has not completed his or her maximum term of total confinement and is subject to a third violation hearing for any violation of community custody and is found to have committed the violation, the department shall return the~~

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~~offender to total confinement in a state correctional facility to serve up to the remaining portion of his or her sentence, unless it is determined that returning the offender to a state correctional facility would substantially interfere with the offender's ability to maintain necessary community supports or to participate in necessary treatment or programming and would substantially increase the offender's likelihood of reoffending.~~

~~(3)(a) For a sex offender sentenced to a term of community custody under RCW 9.94A.670 who violates any condition of community custody, the department may impose a sanction of up to sixty days' confinement in a local correctional facility for each violation. If the department imposes a sanction, the department shall submit within seventy-two hours a report to the court and the prosecuting attorney outlining the violation or violations and the sanctions imposed.~~

~~(b) For a sex offender sentenced to a term of community custody under RCW 9.94A.710 who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in a local correctional facility for each violation.~~

~~(c) For an offender sentenced to a term of community custody under RCW 9.94A.505(2)(b), 9.94A.650, or 9.94A.715, or under RCW 9.94A.545, for a crime committed on or after July 1, 2000, who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in total confinement for each violation. The department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.~~

~~(d) For an offender sentenced to a term of community placement under RCW 9.94A.705 who violates any condition of community placement after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in total confinement for each violation. The department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.~~

~~(4) If an offender has been arrested for a new felony offense while under community supervision, community custody, or community placement, the department shall hold the offender in total confinement until a hearing before the department as provided in this section or until the offender has been formally charged for the new felony offense, whichever is earlier. Nothing in this subsection shall be construed as to permit the department to hold an offender past his or her maximum term of total confinement if the offender has not completed the maximum term of total confinement or to permit the department to hold an offender past the offender's term of community supervision, community custody, or community placement.~~

~~(5) The department shall be financially responsible for any portion of the sanctions authorized by this section that are served in a local correctional facility as the result of action by the department.~~

~~(6)~~)) If an offender is accused of violating any condition or requirement of community custody, he or she is entitled to a hearing before the department prior to the imposition of sanctions. The hearing shall be considered as offender disciplinary proceedings and shall not be subject to chapter 34.05 RCW. The department shall develop hearing procedures and a structure of graduated sanctions.

((~~(7)~~)) (2) The hearing procedures required under subsection ((~~(6)~~)) (1) of this section shall be developed by rule and include the following:

(a) Hearing officers shall report through a chain of command separate from that of community corrections officers;

(b) The department shall provide the offender with written notice of the violation, the evidence relied upon, and the reasons the particular sanction was imposed. The notice shall include a statement of the rights specified in this subsection, and the offender's right to file a personal restraint petition under court rules after the final decision of the department;

(c) The hearing shall be held unless waived by the offender, and shall be electronically recorded. For offenders not in total confinement, the hearing shall be held within fifteen working days, but not less than twenty-four hours, after notice of the violation. For offenders in total confinement, the hearing shall be held within five working days, but not less than twenty-four hours, after notice of the violation;

(d) The offender shall have the right to: (i) Be present at the hearing; (ii) have the assistance of a person qualified to assist the offender in the hearing, appointed by the hearing officer if the offender has a language or communications barrier; (iii) testify or remain silent; (iv) call witnesses and present documentary evidence; and (v) question witnesses who appear and testify; and

(e) The sanction shall take effect if affirmed by the hearing officer. Within seven days after the hearing officer's decision, the offender may appeal the decision to a panel of three reviewing officers designated by the secretary or by the secretary's designee. The sanction shall be reversed or modified if a majority of the panel finds that the sanction was not reasonably related to any of the following: (i) The crime of conviction; (ii) the violation committed; (iii) the offender's risk of reoffending; or (iv) the safety of the community.

((~~(8)~~)) (3) For purposes of this section, no finding of a violation of conditions may be based on unconfirmed or unconfirmable allegations.

((~~(9) The department shall work with the Washington association of sheriffs and police chiefs to establish and operate an electronic monitoring program for low-risk offenders who violate the terms of their community custody. Between January 1, 2006, and December 31, 2006, the department shall endeavor to place at least one hundred low-risk community custody violators on the electronic monitoring program per day if there are at least that many low-risk offenders who qualify for the electronic monitoring program.~~

~~(10) Local governments, their subdivisions and employees, the department and its employees, and the Washington association of sheriffs and police chiefs and its employees shall be immune from civil liability for damages arising from incidents involving low-risk offenders who are placed on electronic monitoring unless it is shown that an employee acted with gross negligence or bad faith.~~))

NEW SECTION. **Sec. 21.** (1) The secretary may issue warrants for the arrest of any offender who violates a condition of community custody. The arrest warrants shall authorize any law enforcement or peace officer or community corrections officer of this state or any other state where such offender may be located, to arrest the offender and place him or her in total confinement pending disposition of the alleged violation.

(2) A community corrections officer, if he or she has reasonable cause to believe an offender has violated a condition of community custody, may suspend the person's community custody status and arrest or cause the arrest and detention in total confinement of the offender, pending the determination of the secretary as to whether the violation has occurred. The community corrections officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending community custody status.

(3) If an offender has been arrested for a new felony offense while under community custody the department shall hold the

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offender in total confinement until a hearing before the department as provided in this section or until the offender has been formally charged for the new felony offense, whichever is earlier. Nothing in this subsection shall be construed as to permit the department to hold an offender past his or her maximum term of total confinement if the offender has not completed the maximum term of total confinement or to permit the department to hold an offender past the offender's term of community custody.

(4) A violation of a condition of community custody shall be deemed a violation of the sentence for purposes of RCW 9.94A.631. The authority granted to community corrections officers under this section shall be in addition to that set forth in RCW 9.94A.631.

Sec. 22. RCW 9.94A.740 and 1999 c 196 s 9 are each amended to read as follows:

(1) ((~~The secretary may issue warrants for the arrest of any offender who violates a condition of community placement or community custody. The arrest warrants shall authorize any law enforcement or peace officer or community corrections officer of this state or any other state where such offender may be located, to arrest the offender and place him or her in total confinement pending disposition of the alleged violation.~~)) When an offender is arrested pursuant to section 21 of this act, the department shall compensate the local jurisdiction at the office of financial management's adjudicated rate, in accordance with RCW 70.48.440. ((~~A community corrections officer, if he or she has reasonable cause to believe an offender in community placement or community custody has violated a condition of community placement or community custody, may suspend the person's community placement or community custody status and arrest or cause the arrest and detention in total confinement of the offender, pending the determination of the secretary as to whether the violation has occurred. The community corrections officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending community placement or community custody status. A violation of a condition of community placement or community custody shall be deemed a violation of the sentence for purposes of RCW 9.94A.631. The authority granted to community corrections officers under this section shall be in addition to that set forth in RCW 9.94A.631.~~))

(2) Inmates, as defined in RCW 72.09.015, who have been transferred to community custody and who are detained in a local correctional facility are the financial responsibility of the department of corrections, except as provided in subsection (3) of this section. ((~~The community custody inmate shall be removed from the local correctional facility, except as provided in subsection (3) of this section, not later than eight days, excluding weekends and holidays, following admittance to the local correctional facility and notification that the inmate is available for movement to a state correctional institution.~~))

(3) ((~~The department may negotiate with local correctional authorities for an additional period of detention; however, sex offenders sanctioned for community custody violations under RCW 9.94A.737(2) to a term of confinement shall remain in the local correctional facility for the complete term of the sanction.~~)) For confinement sanctions imposed by the department under RCW ((~~9.94A.737(2)(a)~~)) 9.94A.670, the local correctional facility shall be financially responsible. ((~~For confinement sanctions imposed under RCW 9.94A.737(2)(b), the department of corrections shall be financially responsible for that portion of the sanction served during the time in which the sex offender is on community custody in lieu of earned release, and the local correctional facility shall be financially responsible for that portion of the sanction served by the sex offender after the time in which the sex offender is on community custody in lieu of earned release.~~))

(4) The department, in consultation with the Washington association of sheriffs and police chiefs and those counties in which the sheriff does not operate a correctional facility, shall establish a methodology for determining the department's local correctional facilities bed utilization rate, for each county in calendar year 1998, for offenders being held for violations of conditions of community custody((~~, community placement, or community supervision~~)). ((~~For confinement sanctions imposed under RCW 9.94A.737(2) (c) or (d)~~))

(5) Except as provided in subsections (1) and (2) of this section, the local correctional facility shall continue to be financially responsible to the extent of the calendar year 1998 bed utilization rate for confinement sanctions imposed by the department pursuant to RCW 9.94A.737. If the department's use of bed space in local correctional facilities of any county for such confinement sanctions ((~~imposed on offenders sentenced to a term of community custody under RCW 9.94A.737(2) (c) or (d)~~)) exceeds the 1998 bed utilization rate for the county, the department shall compensate the county for the excess use at the per diem rate equal to the lowest rate charged by the county under its contract with a municipal government during the year in which the use occurs.

Sec. 23. RCW 9.94A.030 and 2006 c 139 s 5, 2006 c 124 s 1, 2006 c 122 s 7, 2006 c 73 s 5, and 2005 c 436 s 1 are each reenacted and amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed ((~~pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545,~~)) as part of a sentence and served in the community subject to controls placed on the offender's movement and activities by the department. ((~~For offenders placed on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.~~))

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850 ((~~for crimes committed on or after July 1, 2000~~)).

(7) ((~~"Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.~~

~~(8)~~)) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

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((~~(9)~~)) (8) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

((~~(10) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.~~

~~(11)~~)) (9) "Confinement" means total or partial confinement.

((~~(12)~~)) (10) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

((~~(13)~~)) (11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

((~~(14)~~)) (12) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

((~~(15)~~)) (13) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

((~~(16)~~)) (14) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

((~~(17)~~)) (15) "Department" means the department of corrections.

((~~(18)~~)) (16) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community ((~~supervision~~)) custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

((~~(19)~~)) (17) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

((~~(20)~~)) (18) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

((~~(21)~~)) (19) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

((~~(22)~~)) (20) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

((~~(23)~~)) (21) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

((~~(24)~~)) (22) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

((~~(25)~~)) (23) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

((~~(26)~~)) (24) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

((~~(27)~~)) (25) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

((~~(28)~~)) (26) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

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((~~(29)~~)) (27) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.

((~~(30)~~)) (28) "Nonviolent offense" means an offense which is not a violent offense.

((~~(31)~~)) (29) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

((~~(32)~~)) (30) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

((~~(33)~~)) (31) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection ((~~(33)~~)) (31)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

((~~(34) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.~~

~~(35)~~)) (32) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

((~~(36)~~)) (33) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

((~~(37)~~)) (34) "Public school" has the same meaning as in RCW 28A.150.010.

((~~(38)~~)) (35) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

((~~(39)~~)) (36) "Risk assessment" means the application of an objective instrument supported by research and adopted by the department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related

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to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.

((~~(40)~~)) (37) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

((~~(41)~~)) (38) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

((~~(42)~~)) (39) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130((~~(11)~~)) (12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

((~~(43)~~)) (40) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

((~~(44)~~)) (41) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

((~~(45)~~)) (42) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

((~~(46)~~)) (43) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

((~~(47)~~)) (44) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

((~~(48)~~)) (45) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

((~~(49)~~)) (46) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

((~~(50)~~)) (47) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

((~~(51)~~)) (48) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

((~~(52)~~)) (49) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

((~~(53)~~)) (50) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 24. RCW 9.94A.501 and 2005 c 362 s 1 are each amended to read as follows:

(1) When the department performs a risk assessment pursuant to RCW 9.94A.500, or to determine a person's conditions of supervision, the risk assessment shall classify the offender or a probationer sentenced in superior court into one of at least four risk categories.

(2) The department shall supervise every offender sentenced to a term of community custody((~~, community placement, or community supervision~~)) and every misdemeanor and gross misdemeanor probationer ordered by a superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

(a) Whose risk assessment places that offender or probationer in one of the two highest risk categories; or

(b) Regardless of the offender's or probationer's risk category if:

(i) The offender's or probationer's current conviction is for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

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(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(ii) The offender or probationer has a prior conviction for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) The conditions of the offender's community custody((~~, community placement, or community supervision~~)) or the probationer's supervision include chemical dependency treatment;

(iv) The offender was sentenced under RCW 9.94A.650 or 9.94A.670; or

(v) The offender is subject to supervision pursuant to RCW 9.94A.745.

(3) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody((~~, community placement, or community supervision~~)) or any probationer unless the offender or probationer is one for whom supervision is required under subsection (2) of this section.

(4) This section expires July 1, 2010.

Sec. 25. RCW 9.94A.505 and 2006 c 73 s 6 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, ((~~the court shall impose~~)) a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) ((~~RCW 9.94A.700 and 9.94A.705, relating to community placement~~)) Sections 7 and 8 of this act, relating to community custody;

(iii) ((~~RCW 9.94A.710 and 9.94A.715, relating to community custody;~~

~~(iv) RCW 9.94A.545, relating to community custody for offenders whose term of confinement is one year or less;~~

~~(v)~~)) RCW 9.94A.570, relating to persistent offenders;

((~~(vi)~~)) (iv) RCW 9.94A.540, relating to mandatory minimum terms;

((~~(vii)~~)) (v) RCW 9.94A.650, relating to the first-time offender waiver;

((~~(viii)~~)) (vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;

((~~(ix)~~)) (vii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

((~~(x)~~)) (viii) RCW 9.94A.712, relating to certain sex offenses;

((~~(xi)~~)) (ix) RCW 9.94A.535, relating to exceptional sentences;

((~~(xii)~~)) (x) RCW 9.94A.589, relating to consecutive and concurrent sentences;

((~~(xiii)~~)) (xi) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; ((~~until July 1, 2000,~~)) a term of community ((~~supervision~~)) custody not to exceed one year ((~~and on and after July 1, 2000, a term of community custody not to exceed one year, subject to conditions and sanctions as authorized in RCW 9.94A.710 (2) and (3)~~)); and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or ((~~community supervision, community placement, or~~)) community custody ((~~which~~)) that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

(9) ((~~The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment must be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate.~~

~~(10)~~)) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

((~~(11) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may, as part of any term of community supervision, community placement, or community custody, order the offender to participate in a domestic violence perpetrator program approved under RCW 26.50.150.~~))

Sec. 26. RCW 9.94A.610 and 2003 c 53 s 61 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, community ((~~placement~~)) custody, work release placement, furlough, or escape about a specific inmate convicted of a

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serious drug offense to the following if such notice has been requested in writing about a specific inmate convicted of a serious drug offense:

(a) Any witnesses who testified against the inmate in any court proceedings involving the serious drug offense; and

(b) Any person specified in writing by the prosecuting attorney.

Information regarding witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate.

(2) If an inmate convicted of a serious drug offense escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses who are entitled to notice under this section. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The department of corrections shall send the notices required by this section to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section, "serious drug offense" means an offense under RCW 69.50.401(2) (a) or (b) or 69.50.4011(2) (a) or (b).

Sec. 27. RCW 9.94A.612 and 1996 c 215 s 4 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than thirty days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, release, community ((~~placement~~)) custody, work release placement, furlough, or escape about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, to the following:

(a) The chief of police of the city, if any, in which the inmate will reside or in which placement will be made in a work release program; and

(b) The sheriff of the county in which the inmate will reside or in which placement will be made in a work release program.

The sheriff of the county where the offender was convicted shall be notified if the department does not know where the offender will reside. The department shall notify the state patrol of the release of all sex offenders, and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110:

(a) The victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(b) Any witnesses who testified against the inmate in any court proceedings involving the violent offense;

(c) Any person specified in writing by the prosecuting attorney; and

(d) Any person who requests such notice about a specific inmate convicted of a sex offense as defined by RCW 9.94A.030 from the department of corrections at least sixty days prior to the expected release date of the offender.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate. Whenever the department of corrections mails notice pursuant to this subsection and the notice is returned as undeliverable, the department shall attempt alternative methods of notification, including a telephone call to the person's last known telephone number.

(3) The existence of the notice requirements contained in subsections (1) and (2) of this section shall not require an extension of the release date in the event that the release plan changes after notification.

(4) If an inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(5) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(6) The department of corrections shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(7) The department of corrections shall keep, for a minimum of two years following the release of an inmate, the following:

(a) A document signed by an individual as proof that that person is registered in the victim or witness notification program; and

(b) A receipt showing that an individual registered in the victim or witness notification program was mailed a notice, at the individual's last known address, upon the release or movement of an inmate.

(8) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Next of kin" means a person's spouse, parents, siblings and children.

(9) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

Sec. 28. RCW 9.94A.625 and 2000 c 226 s 5 are each amended to read as follows:

(1) A term of confinement ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented himself or herself from confinement without the prior approval of the entity in whose custody the offender has been placed. A term of partial confinement shall be tolled during any period of time spent in total confinement pursuant to a new conviction or pursuant to sanctions for violation of sentence conditions on a separate felony conviction.

(2) Any term of community custody((~~, community placement, or community supervision~~)) shall be tolled by any period of time during which the offender has absented himself or herself from supervision without prior approval of the entity under whose supervision the offender has been placed.

(3) Any period of community custody((~~, community placement, or community supervision~~)) shall be tolled during any period of time the offender is in confinement for any reason.

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However, if an offender is detained pursuant to RCW 9.94A.740 or 9.94A.631 and is later found not to have violated a condition or requirement of community custody((~~, community placement, or community supervision~~)), time spent in confinement due to such detention shall not toll the period of community custody((~~, community placement, or community supervision~~)).

(4) For terms of confinement or community custody((~~, community placement, or community supervision~~)), the date for the tolling of the sentence shall be established by the entity responsible for the confinement or supervision.

Sec. 29. RCW 9.94A.650 and 2006 c 73 s 9 are each amended to read as follows:

(1) This section applies to offenders who have never been previously convicted of a felony in this state, federal court, or another state, and who have never participated in a program of deferred prosecution for a felony, and who are convicted of a felony that is not:

(a) Classified as a violent offense or a sex offense under this chapter;

(b) Manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or flunitrazepam classified in Schedule IV;

(c) Manufacture, delivery, or possession with intent to deliver a methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2);

(d) The selling for profit of any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana; or

(e) Felony driving while under the influence of intoxicating liquor or any drug or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(2) In sentencing a first-time offender the court may waive the imposition of a sentence within the standard sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. ((~~The sentence may also include a term of community supervision or community custody as specified in subsection (3) of this section, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:~~

~~(a) Devote time to a specific employment or occupation;~~

~~(b) Undergo available outpatient treatment for up to the period specified in subsection (3) of this section, or inpatient treatment not to exceed the standard range of confinement for that offense;~~

~~(c) Pursue a prescribed, secular course of study or vocational training;~~

~~(d) Remain within prescribed geographical boundaries and notify the community corrections officer prior to any change in the offender's address or employment;~~

~~(e) Report as directed to a community corrections officer; or~~

~~(f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community restitution work.~~))

(3) ((~~The terms and statuses applicable to sentences under subsection (2) of this section are:~~

~~(a) For sentences imposed on or after July 25, 1999, for crimes committed before July 1, 2000, up to one year of community supervision. If treatment is ordered, the period of community supervision may include up to the period of treatment, but shall not exceed two years; and~~

~~(b) For crimes committed on or after July 1, 2000,~~)) The court may impose up to one year of community custody unless treatment is ordered, in which case the period of community custody may include up to the period of treatment, but shall not exceed two years. ((~~Any term of community custody imposed under this section is subject to conditions and sanctions as authorized in this section and in RCW 9.94A.715 (2) and (3).~~))

(4) ((~~The department shall discharge from community supervision any offender sentenced under this section before July 25, 1999, who has served at least one year of community supervision and has completed any treatment ordered by the court.~~)) As a condition of community custody, in addition to any conditions authorized in section 9 of this act, the court may order the offender to pay all court-ordered legal financial obligations and/or perform community restitution work.

Sec. 30. RCW 9.94A.660 and 2006 c 339 s 302 and 2006 c 73 s 10 are each reenacted and amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender is convicted of a felony that is not a felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6);

(c) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(d) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(e) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(f) The standard sentence range for the current offense is greater than one year; and

(g) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a sentence under this section may be made by the court, the offender, or the state. If the sentencing court determines that the offender is eligible for this alternative, the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:

(a) Whether the offender suffers from drug addiction;

(b) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(c) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and

(d) Whether the offender and the community will benefit from the use of the alternative.

(3) The examination report must contain:

(a) Information on the issues required to be addressed in subsection (2) of this section; and

(b) A proposed treatment plan that must, at a minimum, contain:

(i) A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;

(ii) The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;

(iii) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

(iv) Recommended crime-related prohibitions and affirmative conditions.

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(4) After receipt of the examination report, if the court determines that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under subsection (5) of this section or a residential chemical dependency treatment-based alternative under subsection (6) of this section. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(5) The prison-based alternative shall include:

(a) A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range or twelve months, whichever is greater. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections;

(b) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions of community custody have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

(c) Crime-related prohibitions including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to ((~~RCW 9.94A.715~~)) section 7 of this act to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

(6) The residential chemical dependency treatment-based alternative shall include:

(a) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under subsection (3)(b) of this section. ((~~The department may impose conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7), 9.94A.737, and 9.94A.740.~~)) The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

(b) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:

(i) Authorize the department to terminate the offender's community custody status on the expiration date determined under (a) of this subsection; or

(ii) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(iii) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under ((~~RCW 9.94A.715~~)) section 7 of this act;

(c) If the court imposes a term of total confinement under (b)(iii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

(7) ((~~If the court imposes a sentence under this section, the court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program.~~)) The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring for alcohol or controlled substances. ((~~In addition,~~))

(8) The court may impose any of the following conditions:

(a) ((~~Devote time to a specific employment or training;~~

~~(b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;~~

~~(c) Report as directed to a community corrections officer;~~

~~(d)~~)) Pay all court-ordered legal financial obligations; or

((~~(e)~~)) (b) Perform community restitution work((~~;~~

~~(f) Stay out of areas designated by the sentencing court;~~

~~(g) Such other conditions as the court may require such as affirmative conditions~~)).

((~~(8)~~)) (9)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the ((~~terms~~)) conditions of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

((~~(9)~~)) (10) In serving a term of community custody imposed upon failure to complete, or administrative termination from, the special drug offender sentencing alternative program, the offender shall receive no credit for time served in community custody prior to termination of the offender's participation in the program.

(11) If an offender sentenced to the prison-based alternative under subsection (5) of this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

((~~(10)~~)) (12) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

((~~(11)~~)) (13) Costs of examinations and preparing treatment plans under subsections (2) and (3) of this section may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.

Sec. 31. RCW 9.94A.670 and 2006 c 133 s 1 are each amended to read as follows:

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(1) Unless the context clearly requires otherwise, the definitions in this subsection apply to this section only.

(a) "Sex offender treatment provider" or "treatment provider" means a certified sex offender treatment provider or a certified affiliate sex offender treatment provider as defined in RCW 18.155.020.

(b) "Substantial bodily harm" means bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any body part or organ, or that causes a fracture of any body part or organ.

(c) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(2) An offender is eligible for the special sex offender sentencing alternative if:

(a) The offender has been convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense. If the conviction results from a guilty plea, the offender must, as part of his or her plea of guilty, voluntarily and affirmatively admit he or she committed all of the elements of the crime to which the offender is pleading guilty. This alternative is not available to offenders who plead guilty to the offense charged under *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970) and *State v. Newton*, 87 Wash.2d 363, 552 P.2d 682 (1976);

(b) The offender has no prior convictions for a sex offense as defined in RCW 9.94A.030 or any other felony sex offenses in this or any other state;

(c) The offender has no prior adult convictions for a violent offense that was committed within five years of the date the current offense was committed;

(d) The offense did not result in substantial bodily harm to the victim;

(e) The offender had an established relationship with, or connection to, the victim such that the sole connection with the victim was not the commission of the crime; and

(f) The offender's standard sentence range for the offense includes the possibility of confinement for less than eleven years.

(3) If the court finds the offender is eligible for this alternative, the court, on its own motion or the motion of the state or the offender, may order an examination to determine whether the offender is amenable to treatment.

(a) The report of the examination shall include at a minimum the following:

(i) The offender's version of the facts and the official version of the facts;

(ii) The offender's offense history;

(iii) An assessment of problems in addition to alleged deviant behaviors;

(iv) The offender's social and employment situation; and

(v) Other evaluation measures used.

The report shall set forth the sources of the examiner's information.

(b) The examiner shall assess and report regarding the offender's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(i) Frequency and type of contact between offender and therapist;

(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions and affirmative conditions, which must include, to the extent known, an identification of specific activities or behaviors that are precursors to the offender's offense cycle, including, but not limited to, activities or behaviors such as viewing or listening to pornography or use of alcohol or controlled substances.

(c) The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The examiner shall be selected by the party making the motion. The offender shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(4) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this alternative, consider whether the alternative is too lenient in light of the extent and circumstances of the offense, consider whether the offender has victims in addition to the victim of the offense, consider whether the offender is amenable to treatment, consider the risk the offender would present to the community, to the victim, or to persons of similar age and circumstances as the victim, and consider the victim's opinion whether the offender should receive a treatment disposition under this section. The court shall give great weight to the victim's opinion whether the offender should receive a treatment disposition under this section. If the sentence imposed is contrary to the victim's opinion, the court shall enter written findings stating its reasons for imposing the treatment disposition. The fact that the offender admits to his or her offense does not, by itself, constitute amenability to treatment. If the court determines that this alternative is appropriate, the court shall then impose a sentence or, pursuant to RCW 9.94A.712, a minimum term of sentence, within the standard sentence range. If the sentence imposed is less than eleven years of confinement, the court may suspend the execution of the sentence ((~~and impose the following conditions of suspension:~~)) as provided in this section.

(5) As conditions of the suspended sentence, the court must impose the following:

(a) ((~~The court shall order the offender to serve~~)) A term of confinement of up to twelve months or the maximum term within the standard range, whichever is less. The court may order the offender to serve a term of confinement greater than twelve months or the maximum term within the standard range based on the presence of an aggravating circumstance listed in RCW 9.94A.535(3). In no case shall the term of confinement exceed the statutory maximum sentence for the offense. The court may order the offender to serve all or part of his or her term of confinement in partial confinement. An offender sentenced to a term of confinement under this subsection is not eligible for earned release under RCW 9.92.151 or 9.94A.728.

(b) ((~~The court shall place the offender on~~)) A term of community custody ((~~for~~)) equal to the length of the suspended sentence, the length of the maximum term imposed pursuant to RCW 9.94A.712, or three years, whichever is greater, and require the offender to comply with any conditions imposed by the department under ((~~RCW 9.94A.720~~)) section 9 of this act.

(c) ((~~The court shall order~~)) Treatment for any period up to five years in duration. The court, in its discretion, shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court. If any party or the court objects to a proposed change, the offender shall not change providers or conditions without court approval after a hearing.

(d) ((~~As conditions of the suspended sentence, the court shall impose~~)) Specific prohibitions and affirmative conditions relating to the known precursor activities or behaviors identified in the proposed treatment plan under subsection (3)(b)(v) of this

section or identified in an annual review under subsection ((~~(7)~~)) (8)(b) of this section.

((~~(5)~~)) (6) As conditions of the suspended sentence, the court may impose one or more of the following:

(a) Crime-related prohibitions;

(b) Require the offender to devote time to a specific employment or occupation;

(c) Require the offender to remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(d) Require the offender to report as directed to the court and a community corrections officer;

(e) Require the offender to pay all court-ordered legal financial obligations as provided in RCW 9.94A.030;

(f) Require the offender to perform community restitution work; or

(g) Require the offender to reimburse the victim for the cost of any counseling required as a result of the offender's crime.

((~~(6)~~)) (7) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment.

((~~(7)~~)) (8)(a) The sex offender treatment provider shall submit quarterly reports on the offender's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, offender's compliance with requirements, treatment activities, the offender's relative progress in treatment, and any other material specified by the court at sentencing.

(b) The court shall conduct a hearing on the offender's progress in treatment at least once a year. At least fourteen days prior to the hearing, notice of the hearing shall be given to the victim. The victim shall be given the opportunity to make statements to the court regarding the offender's supervision and treatment. At the hearing, the court may modify conditions of community custody including, but not limited to, crime-related prohibitions and affirmative conditions relating to activities and behaviors identified as part of, or relating to precursor activities and behaviors in, the offender's offense cycle or revoke the suspended sentence.

((~~(8)~~)) (9) At least fourteen days prior to the treatment termination hearing, notice of the hearing shall be given to the victim. The victim shall be given the opportunity to make statements to the court regarding the offender's supervision and treatment. Prior to the treatment termination hearing, the treatment provider and community corrections officer shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community custody conditions. The court may order an evaluation regarding the advisability of termination from treatment by a sex offender treatment provider who may not be the same person who treated the offender under subsection ((~~(4)~~)) (5) of this section or any person who employs, is employed by, or shares profits with the person who treated the offender under subsection ((~~(4)~~)) (5) of this section unless the court has entered written findings that such evaluation is in the best interest of the victim and that a successful evaluation of the offender would otherwise be impractical. The offender shall pay the cost of the evaluation. At the treatment termination hearing the court may: (a) Modify conditions of community custody, and either (b) terminate treatment, or (c) extend treatment in two-year increments for up to the remaining period of community custody.

((~~(9)~~)) (10)(a) If a violation of conditions other than a second violation of the prohibitions or affirmative conditions relating to precursor behaviors or activities imposed under subsection ((~~(4)~~)) (5)(d) or ((~~(7)~~)) (8)(b) of this section occurs during community custody, the department shall either impose sanctions as provided for in ((~~RCW 9.94A.737(2)(a)~~)) section 15(1) of this act or refer the violation to the court and recommend revocation of the suspended sentence as provided for in subsections ((~~(6)~~)) (7) and ((~~(8)~~)) (9) of this section.

(b) If a second violation of the prohibitions or affirmative conditions relating to precursor behaviors or activities imposed under subsection ((~~(4)~~)) (5)(d) or ((~~(7)~~)) (8)(b) of this section occurs during community custody, the department shall refer the violation to the court and recommend revocation of the suspended sentence as provided in subsection ((~~(10)~~)) (11) of this section.

((~~(10)~~)) (11) The court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence if: (a) The offender violates the conditions of the suspended sentence, or (b) the court finds that the offender is failing to make satisfactory progress in treatment. All confinement time served during the period of community custody shall be credited to the offender if the suspended sentence is revoked.

((~~(11)~~)) (12) If the offender violates a requirement of the sentence that is not a condition of the suspended sentence pursuant to subsection (5) or (6) of this section, the department may impose sanctions pursuant to section 15(1) of this act.

(13) The offender's sex offender treatment provider may not be the same person who examined the offender under subsection (3) of this section or any person who employs, is employed by, or shares profits with the person who examined the offender under subsection (3) of this section, unless the court has entered written findings that such treatment is in the best interests of the victim and that successful treatment of the offender would otherwise be impractical. Examinations and treatment ordered pursuant to this subsection shall only be conducted by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW unless the court finds that:

(a) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; or

(b)(i) No certified sex offender treatment providers or certified affiliate sex offender treatment providers are available for treatment within a reasonable geographical distance of the offender's home; and

(ii) The evaluation and treatment plan comply with this section and the rules adopted by the department of health.

((~~(12)~~)) (14) If the offender is less than eighteen years of age when the charge is filed, the state shall pay for the cost of initial evaluation and treatment.

Sec. 32. RCW 9.94A.690 and 2006 c 73 s 11 are each amended to read as follows:

(1)(a) An offender is eligible to be sentenced to a work ethic camp if the offender:

(i) Is sentenced to a term of total confinement of not less than twelve months and one day or more than thirty-six months;

(ii) Has no current or prior convictions for any sex offenses or for violent offenses; and

(iii) Is not currently subject to a sentence for, or being prosecuted for, a violation of felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), a violation of physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), a violation of the uniform controlled substances act, or a criminal solicitation to commit such a violation under chapter 9A.28 or 69.50 RCW.

(b) The length of the work ethic camp shall be at least one hundred twenty days and not more than one hundred eighty days.

(2) If the sentencing court determines that the offender is eligible for the work ethic camp and is likely to qualify under subsection (3) of this section, the judge shall impose a sentence within the standard sentence range and may recommend that the offender serve the sentence at a work ethic camp. In sentencing an offender to the work ethic camp, the court shall specify: (a) That upon completion of the work ethic camp the offender shall

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be released on community custody for any remaining time of total confinement; (b) the applicable conditions of ((~~supervision on~~)) community custody ((~~status~~)) as ((~~required by RCW 9.94A.700(4) and~~)) authorized by ((~~RCW 9.94A.700(5)~~)) section 9 of this act; and (c) that violation of the conditions may result in a return to total confinement for the balance of the offender's remaining time of confinement.

(3) The department shall place the offender in the work ethic camp program, subject to capacity, unless: (a) The department determines that the offender has physical or mental impairments that would prevent participation and completion of the program; (b) the department determines that the offender's custody level prevents placement in the program; (c) the offender refuses to agree to the terms and conditions of the program; (d) the offender has been found by the United States attorney general to be subject to a deportation detainer or order; or (e) the offender has participated in the work ethic camp program in the past.

(4) An offender who fails to complete the work ethic camp program, who is administratively terminated from the program, or who otherwise violates any conditions of supervision, as defined by the department, shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court and shall be subject to all rules relating to earned release time.

(5) During the last two weeks prior to release from the work ethic camp program the department shall provide the offender with comprehensive transition training.

Sec. 33. RCW 9.94A.712 and 2006 c 124 s 3, 2006 c 122 s 5, and 2005 c 436 s 2 are each reenacted and amended to read as follows:

(1) An offender who is not a persistent offender shall be sentenced under this section if the offender:

(a) Is convicted of:

(i) Rape in the first degree, rape in the second degree, rape of a child in the first degree, child molestation in the first degree, rape of a child in the second degree, or indecent liberties by forcible compulsion;

(ii) Any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or

(iii) An attempt to commit any crime listed in this subsection (1)(a);

((~~committed on or after September 1, 2001;~~)) or

(b) Has a prior conviction for an offense listed in RCW 9.94A.030((~~(33)~~)) (31)(b), and is convicted of any sex offense ((~~which was committed after September 1, 2001.~~

~~For purposes of this subsection (1)(b),~~)) other than failure to register ((~~is not a sex offense~~)).

(2) An offender convicted of rape of a child in the first or second degree or child molestation in the first degree who was seventeen years of age or younger at the time of the offense shall not be sentenced under this section.

(3)(a) Upon a finding that the offender is subject to sentencing under this section, the court shall impose a sentence to a maximum term and a minimum term.

(b) The maximum term shall consist of the statutory maximum sentence for the offense.

(c)(i) Except as provided in (c)(ii) of this subsection, the minimum term shall be either within the standard sentence range for the offense, or outside the standard sentence range pursuant to RCW 9.94A.535, if the offender is otherwise eligible for such a sentence.

(ii) If the offense that caused the offender to be sentenced under this section was rape of a child in the first degree, rape of a child in the second degree, or child molestation in the first degree, and there has been a finding that the offense was predatory under RCW 9.94A.836, the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater. If the offense that caused the offender to be sentenced under this section was rape in the first degree, rape in the second degree, indecent liberties by forcible compulsion, or kidnapping in the first degree with sexual motivation, and there has been a finding that the victim was under the age of fifteen at the time of the offense under RCW 9.94A.837, the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater. If the offense that caused the offender to be sentenced under this section is rape in the first degree, rape in the second degree with forcible compulsion, indecent liberties with forcible compulsion, or kidnapping in the first degree with sexual motivation, and there has been a finding under RCW 9.94A.838 that the victim was, at the time of the offense, developmentally disabled, mentally disordered, or a frail elder or vulnerable adult, the minimum sentence shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater.

(d) The minimum terms in (c)(ii) of this subsection do not apply to a juvenile tried as an adult pursuant to RCW 13.04.030(1)(e) (i) or (v). The minimum term for such a juvenile shall be imposed under (c)(i) of this subsection.

(4) A person sentenced under subsection (3) of this section shall serve the sentence in a facility or institution operated, or utilized under contract, by the state.

(5) When a court sentences a person to the custody of the department under this section, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody under the supervision of the department and the authority of the board for any period of time the person is released from total confinement before the expiration of the maximum sentence.

(6)(a)((~~(i) Unless a condition is waived by the court, the conditions of community custody shall include those provided for in RCW 9.94A.700(4). The conditions may also include those provided for in RCW 9.94A.700(5). The court may also order the offender to participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community, and the department and the board shall enforce such conditions pursuant to RCW 9.94A.713, 9.95.425, and 9.95.430.~~

~~(ii) If the offense that caused the offender to be sentenced under this section was an offense listed in subsection (1)(a) of this section and the victim of the offense was under eighteen years of age at the time of the offense, the court shall, as a condition of community custody, prohibit the offender from residing in a community protection zone.~~

~~(b)~~)) As part of any sentence under this section, the court shall also require the offender to comply with any conditions imposed by the board under RCW ((~~9.94A.713 and~~)) 9.95.420 through 9.95.435.

(b) An offender released by the board under RCW 9.95.420 is subject to the supervision of the department until the expiration of the maximum term of the sentence. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, department, or board, and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

Sec. 34. RCW 9.94A.728 and 2007 c 483 s 304 are each amended to read as follows:

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department may be reduced

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by earned release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(a) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence. In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(b)(i) In the case of an offender who qualifies under (b)(ii) of this subsection, the aggregate earned release time may not exceed fifty percent of the sentence.

(ii) An offender is qualified to earn up to fifty percent of aggregate earned release time under this subsection (1)(b) if he or she:

(A) Is classified in one of the two lowest risk categories under (b)(iii) of this subsection;

(B) Is not confined pursuant to a sentence for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor); (C) Has no prior conviction for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(D) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(E) Has not committed a new felony after July 22, 2007, while under ((~~community supervision, community placement, or~~)) community custody.

(iii) For purposes of determining an offender's eligibility under this subsection (1)(b), the department shall perform a risk assessment of every offender committed to a correctional facility operated by the department who has no current or prior conviction for a sex offense, a violent offense, a crime against persons as defined in RCW 9.94A.411, a felony that is domestic violence as defined in RCW 10.99.020, a violation of RCW 9A.52.025 (residential burglary), a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine, or a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor). The department must classify each assessed offender in one of four risk categories between highest and lowest risk.

(iv) The department shall recalculate the earned release time and reschedule the expected release dates for each qualified offender under this subsection (1)(b).

(v) This subsection (1)(b) applies retroactively to eligible offenders serving terms of total confinement in a state correctional facility as of July 1, 2003.

(vi) This subsection (1)(b) does not apply to offenders convicted after July 1, 2010.

(c) In no other case shall the aggregate earned release time exceed one-third of the total sentence;

(2)(a) ((~~A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, vehicular homicide, vehicular assault, assault of a child in the second degree, any crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;~~

~~(b)~~)) A person convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, ((~~committed on or after July 1, 2000,~~)) may become eligible, in accordance with a program developed by the department, for transfer to community custody ((~~status~~)) in lieu of earned release time pursuant to subsection (1) of this section;

((~~(c)~~)) (b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with ((~~community placement or~~)) community custody terms eligible for release to community custody ((~~status~~)) in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

((~~(d)~~)) (c) The department may deny transfer to community custody ((~~status~~)) in lieu of earned release time pursuant to subsection (1) of this section if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody ((~~or community placement~~));

((~~(e)~~)) (d) If the department denies transfer to community custody ((~~status~~)) in lieu of earned early release pursuant to ((~~(d)~~)) (c) of this subsection, the department may transfer an offender to partial confinement in lieu of earned early release up to three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in this section;

((~~(f)~~)) (e) An offender serving a term of confinement imposed under RCW 9.94A.670((~~(4)~~)) (5)(a) is not eligible for earned release credits under this section;

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(3) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(4)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(i) The offender has a medical condition that is serious enough to require costly care or treatment;

(ii) The offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and

(iii) Granting the extraordinary medical placement will result in a cost savings to the state.

(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(d) The secretary may revoke an extraordinary medical placement under this subsection at any time;

(5) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(6) No more than the final six months of the offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to subsection (2)((~~(c)~~)) (d) of this section;

(7) The governor may pardon any offender;

(8) The department may release an offender from confinement any time within ten days before a release date calculated under this section; ((~~and~~))

(9) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870((~~.~~)); and

(10) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540, however persistent offenders are not eligible for extraordinary medical placement.

Sec. 35. RCW 9.94A.760 and 2005 c 263 s 1 are each amended to read as follows:

(1) Whenever a person is convicted in superior court, the court may order the payment of a legal financial obligation as part of the sentence. The court must on either the judgment and sentence or on a subsequent order to pay, designate the total amount of a legal financial obligation and segregate this amount among the separate assessments made for restitution, costs, fines, and other assessments required by law. On the same order, the court is also to set a sum that the offender is required to pay on a monthly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount if the department has active supervision of the offender, otherwise the county clerk shall set the amount. Upon receipt of an offender's monthly payment, restitution shall be paid prior to any payments of other monetary obligations. After restitution is satisfied, the county clerk shall distribute the payment proportionally among all other fines, costs, and assessments imposed, unless otherwise ordered by the court.

(2) If the court determines that the offender, at the time of sentencing, has the means to pay for the cost of incarceration, the court may require the offender to pay for the cost of incarceration at a rate of fifty dollars per day of incarceration, if incarcerated in a prison, or the court may require the offender to pay the actual cost of incarceration per day of incarceration, if incarcerated in a county jail. In no case may the court require the offender to pay more than one hundred dollars per day for the cost of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision shall take precedence over the payment of the cost of incarceration ordered by the court. All funds recovered from offenders for the cost of incarceration in the county jail shall be remitted to the county and the costs of incarceration in a prison shall be remitted to the department.

(3) The court may add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction is to be issued immediately. If the court chooses not to order the immediate issuance of a notice of payroll deduction at sentencing, the court shall add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender if a monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal to or greater than the amount payable for one month is owed.

If a judgment and sentence or subsequent order to pay does not include the statement that a notice of payroll deduction may be issued or other income-withholding action may be taken if a monthly legal financial obligation payment is past due, the department or the county clerk may serve a notice on the offender stating such requirements and authorizations. Service shall be by personal service or any form of mail requiring a return receipt.

(4) Independent of the department or the county clerk, the party or entity to whom the legal financial obligation is owed shall have the authority to use any other remedies available to the party or entity to collect the legal financial obligation. These remedies include enforcement in the same manner as a judgment in a civil action by the party or entity to whom the legal financial obligation is owed. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim. The judgment and sentence shall identify the party or entity to whom restitution is owed so that the state, party, or entity may enforce the judgment. If restitution is ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of rape of a child or a victim's child born from the rape, the Washington state child support registry shall be identified as the party to whom payments must be made. Restitution obligations arising from the rape of a child in the first, second, or third degree that result in the pregnancy of the victim may be enforced for the time periods provided under RCW 9.94A.750(6) and 9.94A.753(6). All other legal financial obligations for an offense committed prior to July 1, 2000, may be enforced at any time during the ten-year period following the offender's release from total confinement or within ten years of entry of the judgment and sentence, whichever period ends later. Prior to the expiration of the initial ten-year period, the superior court may extend the criminal judgment an additional ten years for payment of legal financial obligations including crime victims' assessments. All other legal financial obligations for an offense committed on or after July 1, 2000, may be enforced at any time the offender remains under the court's jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The

department may only supervise the offender's compliance with payment of the legal financial obligations during any period in which the department is authorized to supervise the offender in the community under RCW 9.94A.728, 9.94A.501, or in which the offender is confined in a state correctional institution or a correctional facility pursuant to a transfer agreement with the department, and the department shall supervise the offender's compliance during any such period. The department is not responsible for supervision of the offender during any subsequent period of time the offender remains under the court's jurisdiction. The county clerk is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.

(5) In order to assist the court in setting a monthly sum that the offender must pay during the period of supervision, the offender is required to report to the department for purposes of preparing a recommendation to the court. When reporting, the offender is required, under oath, to respond truthfully and honestly to all questions concerning present, past, and future earning capabilities and the location and nature of all property or financial assets. The offender is further required to bring all documents requested by the department.

(6) After completing the investigation, the department shall make a report to the court on the amount of the monthly payment that the offender should be required to make towards a satisfied legal financial obligation.

(7)(a) During the period of supervision, the department may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the department sets the monthly payment amount, the department may modify the monthly payment amount without the matter being returned to the court. During the period of supervision, the department may require the offender to report to the department for the purposes of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the department in order to prepare the collection schedule.

(b) Subsequent to any period of supervision, or if the department is not authorized to supervise the offender in the community, the county clerk may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the county clerk sets the monthly payment amount, or if the department set the monthly payment amount and the department has subsequently turned the collection of the legal financial obligation over to the county clerk, the clerk may modify the monthly payment amount without the matter being returned to the court. During the period of repayment, the county clerk may require the offender to report to the clerk for the purpose of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the county clerk in order to prepare the collection schedule.

(8) After the judgment and sentence or payment order is entered, the department is authorized, for any period of supervision, to collect the legal financial obligation from the offender. Subsequent to any period of supervision or, if the department is not authorized to supervise the offender in the community, the county clerk is authorized to collect unpaid legal financial obligations from the offender. Any amount collected by the department shall be remitted daily to the county clerk for the purpose of disbursements. The department and the county clerks are authorized, but not required, to accept credit cards as payment for a legal financial obligation, and any costs incurred related to accepting credit card payments shall be the responsibility of the offender.

(9) The department or any obligee of the legal financial obligation may seek a mandatory wage assignment for the purposes of obtaining satisfaction for the legal financial obligation pursuant to RCW 9.94A.7701. Any party obtaining a wage assignment shall notify the county clerk. The county clerks shall notify the department, or the administrative office of the courts, whichever is providing the monthly billing for the offender.

(10) The requirement that the offender pay a monthly sum towards a legal financial obligation constitutes a condition or requirement of a sentence and the offender is subject to the penalties for noncompliance as provided in RCW 9.94A.634 (as recodified by this act), 9.94A.737, or 9.94A.740.

(11)(a) Until January 1, 2004, the department shall mail individualized monthly billings to the address known by the department for each offender with an unsatisfied legal financial obligation.

(b) Beginning January 1, 2004, the administrative office of the courts shall mail individualized monthly billings to the address known by the office for each offender with an unsatisfied legal financial obligation.

(c) The billing shall direct payments, other than outstanding cost of supervision assessments under RCW 9.94A.780, parole assessments under RCW 72.04A.120, and cost of probation assessments under RCW 9.95.214, to the county clerk, and cost of supervision, parole, or probation assessments to the department.

(d) The county clerk shall provide the administrative office of the courts with notice of payments by such offenders no less frequently than weekly.

(e) The county clerks, the administrative office of the courts, and the department shall maintain agreements to implement this subsection.

(12) The department shall arrange for the collection of unpaid legal financial obligations during any period of supervision in the community through the county clerk. The department shall either collect unpaid legal financial obligations or arrange for collections through another entity if the clerk does not assume responsibility or is unable to continue to assume responsibility for collection pursuant to subsection (4) of this section. The costs for collection services shall be paid by the offender.

(13) The county clerk may access the records of the employment security department for the purposes of verifying employment or income, seeking any assignment of wages, or performing other duties necessary to the collection of an offender's legal financial obligations.

(14) Nothing in this chapter makes the department, the state, the counties, or any state or county employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations or for the acts of any offender who is no longer, or was not, subject to supervision by the department for a term of community custody, ((~~community placement, or community supervision,~~)) and who remains under the jurisdiction of the court for payment of legal financial obligations.

Sec. 36. RCW 9.94A.775 and 2003 c 379 s 17 are each amended to read as follows:

If an offender with an unsatisfied legal financial obligation is not subject to supervision by the department for a term of ((~~community placement,~~)) community custody, ((~~or community supervision,~~)) or has not completed payment of all legal financial obligations included in the sentence at the expiration of his or her term of ((~~community placement,~~)) community custody, ((~~or community supervision,~~)) the department shall notify the administrative office of the courts of the termination of the offender's supervision and provide information to the administrative office of the courts to enable the county clerk to

monitor payment of the remaining obligations. The county clerk is authorized to monitor payment after such notification. The secretary of corrections and the administrator for the courts shall enter into an interagency agreement to facilitate the electronic transfer of information about offenders, unpaid obligations, and payees to carry out the purposes of this section.

Sec. 37. RCW 9.94A.780 and 2003 c 379 s 18 are each amended to read as follows:

(1) Whenever a punishment imposed under this chapter requires supervision services to be provided, the offender shall pay to the department of corrections the monthly assessment, prescribed under subsection (2) of this section, which shall be for the duration of the terms of supervision and which shall be considered as payment or part payment of the cost of providing supervision to the offender. The department may exempt or defer a person from the payment of all or any part of the assessment based upon any of the following factors:

(a) The offender has diligently attempted but has been unable to obtain employment that provides the offender sufficient income to make such payments.

(b) The offender is a student in a school, college, university, or a course of vocational or technical training designed to fit the student for gainful employment.

(c) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the department.

(d) The offender's age prevents him or her from obtaining employment.

(e) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship on the offender.

(f) Other extenuating circumstances as determined by the department.

(2) The department of corrections shall adopt a rule prescribing the amount of the assessment. The department may, if it finds it appropriate, prescribe a schedule of assessments that shall vary in accordance with the intensity or cost of the supervision. The department may not prescribe any assessment that is less than ten dollars nor more than fifty dollars.

(3) All amounts required to be paid under this section shall be collected by the department of corrections and deposited by the department in the dedicated fund established pursuant to RCW 72.11.040.

(4) This section shall not apply to probation services provided under an interstate compact pursuant to chapter 9.95 RCW or to probation services provided for persons placed on probation prior to June 10, 1982.

(5) If a county clerk assumes responsibility for collection of unpaid legal financial obligations under RCW 9.94A.760, or under any agreement with the department under that section, whether before or after the completion of any period of ((~~community placement,~~)) community custody, ((~~or community supervision,~~)) the clerk may impose a monthly or annual assessment for the cost of collections. The amount of the assessment shall not exceed the actual cost of collections. The county clerk may exempt or defer payment of all or part of the assessment based upon any of the factors listed in subsection (1) of this section. The offender shall pay the assessment under this subsection to the county clerk who shall apply it to the cost of collecting legal financial obligations under RCW 9.94A.760.

Sec. 38. RCW 9.94A.820 and 2004 c 38 s 10 are each amended to read as follows:

(1) Sex offender examinations and treatment ordered as a special condition of ((~~community placement or~~)) community custody under this chapter shall be conducted only by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW unless the court or the department finds that: (a) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (b) the treatment provider is employed by the department; or (c)(i) no certified sex offender treatment providers or certified affiliate sex offender treatment providers are available to provide treatment within a reasonable geographic distance of the offender's home, as determined in rules adopted by the secretary; and (ii) the evaluation and treatment plan comply with the rules adopted by the department of health. A treatment provider selected by an offender under (c) of this subsection, who is not certified by the department of health shall consult with a certified sex offender treatment provider during the offender's period of treatment to ensure compliance with the rules adopted by the department of health. The frequency and content of the consultation shall be based on the recommendation of the certified sex offender treatment provider.

(2) A sex offender's failure to participate in treatment required as a condition of ((~~community placement or~~)) community custody is a violation that will not be excused on the basis that no treatment provider was located within a reasonable geographic distance of the offender's home.

Sec. 39. RCW 4.24.556 and 2004 c 38 s 1 are each amended to read as follows:

(1) A certified sex offender treatment provider, or a certified affiliate sex offender treatment provider who has completed at least fifty percent of the required hours under the supervision of a certified sex offender treatment provider, acting in the course of his or her duties, providing treatment to a person who has been released to a less restrictive alternative under chapter 71.09 RCW or to a level III sex offender on community custody as a court ((~~or~~)), department, or board ordered condition of sentence is not negligent because he or she treats a high risk offender; sex offenders are known to have a risk of reoffense. The treatment provider is not liable for civil damages resulting from the reoffense of a client unless the treatment provider's acts or omissions constituted gross negligence or willful or wanton misconduct. This limited liability provision does not eliminate the treatment provider's duty to warn of and protect from a client's threatened violent behavior if the client communicates a serious threat of physical violence against a reasonably ascertainable victim or victims. In addition to any other requirements to report violations, the sex offender treatment provider is obligated to report an offender's expressions of intent to harm or other predatory behavior, whether or not there is an ascertainable victim, in progress reports and other established processes that enable courts and supervising entities to assess and address the progress and appropriateness of treatment. This limited liability provision applies only to the conduct of certified sex offender treatment providers, and certified affiliate sex offender treatment providers who have completed at least fifty percent of the required hours under the supervision of a certified sex offender treatment provider, and not the conduct of the state.

(2) Sex offender treatment providers who provide services to the department of corrections by identifying risk factors and notifying the department of risks for the subset of high risk offenders who are not amenable to treatment and who are under court order for treatment or supervision are practicing within the scope of their profession.

Sec. 40. RCW 9.95.017 and 2003 c 218 s 2 are each amended to read as follows:

(1) The board shall cause to be prepared criteria for duration of confinement, release on parole, and length of parole for persons committed to prison for crimes committed before July 1, 1984.

The proposed criteria should take into consideration RCW 9.95.009(2). Before submission to the governor, the board shall solicit comments and review on their proposed criteria for parole release.

(2) Persons committed to the department of corrections and who are under the authority of the board for crimes committed on or after September 1, 2001, are subject to the provisions for duration of confinement, release to community custody, and length of community custody established in RCW 9.94A.712,

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((~~9.94A.713~~)) section 10 of this act, 72.09.335, and 9.95.420 through 9.95.440.

Sec. 41. RCW 9.95.064 and 2001 2nd sp.s. c 12 s 326 are each amended to read as follows:

(1) In order to minimize the trauma to the victim, the court may attach conditions on release of an offender under RCW 9.95.062, convicted of a crime committed before July 1, 1984, regarding the whereabouts of the defendant, contact with the victim, or other conditions.

(2) Offenders released under RCW 9.95.420 are subject to crime-related prohibitions and affirmative conditions established by the court, the department of corrections, or the board pursuant to RCW ((~~9.94A.715 and~~)) 9.94A.712, ((~~9.94A.713~~)) section 10 of this act, 72.09.335, and 9.95.420 through 9.95.440.

Sec. 42. RCW 9.95.110 and 2003 c 218 s 7 are each amended to read as follows:

(1) The board may permit an offender convicted of a crime committed before July 1, 1984, to leave the buildings and enclosures of a state correctional institution on parole, after such convicted person has served the period of confinement fixed for him or her by the board, less time credits for good behavior and diligence in work: PROVIDED, That in no case shall an inmate be credited with more than one-third of his or her sentence as fixed by the board.

The board may establish rules and regulations under which an offender may be allowed to leave the confines of a state correctional institution on parole, and may return such person to the confines of the institution from which he or she was paroled, at its discretion.

(2) The board may permit an offender convicted of a crime committed on or after September 1, 2001, and sentenced under RCW 9.94A.712, to leave a state correctional institution on community custody according to the provisions of RCW 9.94A.712, ((~~9.94A.713~~)) section 10 of this act, 72.09.335, and 9.95.420 through 9.95.440. The person may be returned to the institution following a violation of his or her conditions of release to community custody pursuant to the hearing provisions of RCW 9.95.435.

Sec. 43. RCW 9.95.123 and 2001 2nd sp.s. c 12 s 336 are each amended to read as follows:

In conducting on-site parole hearings or community custody revocation ((~~hearings or community custody~~)) or violations hearings, the board shall have the authority to administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas for the compulsory attendance of witnesses and the production of evidence for presentation at such hearings. Subpoenas issued by the board shall be effective throughout the state. Witnesses in attendance at any on-site parole or community custody revocation hearing shall be paid the same fees and allowances, in the same manner and under the same conditions as provided for witnesses in the courts of the state in accordance with chapter 2.40 RCW. If any person fails or refuses to obey a subpoena issued by the board, or obeys the subpoena but refuses to testify concerning any matter under examination at the hearing, the board may petition the superior court of the county where the hearing is being conducted for enforcement of the subpoena: PROVIDED, That an offer to pay statutory fees and mileage has been made to the witness at the time of the service of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the board. The court, upon such petition, shall enter an order directing the witness to appear before the court at a time and place to be fixed in such order and then and there to show cause why he or she has not responded to the subpoena or has refused to testify. A copy of the order shall be served upon the witness. If it appears to the court that the subpoena was properly issued and that the particular questions which the witness refuses to answer are reasonable and relevant, the court shall enter an order that the witness appear at the time and place fixed in the order and testify or produce the required papers, and on failing to obey the order, the witness shall be dealt with as for contempt of court.

Sec. 44. RCW 9.95.420 and 2007 c 363 s 2 are each amended to read as follows:

(1)(a) Except as provided in (c) of this subsection, before the expiration of the minimum term, as part of the end of sentence review process under RCW 72.09.340, 72.09.345, and where appropriate, 72.09.370, the department shall conduct, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(b) The board may contract for an additional, independent examination, subject to the standards in this section.

(c) If at the time the sentence is imposed by the superior court the offender's minimum term has expired or will expire within one hundred twenty days of the sentencing hearing, the department shall conduct, within ninety days of the offender's arrival at a department of corrections facility, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(2) The board shall impose the conditions and instructions provided for in ((~~RCW 9.94A.720~~)) section 10 of this act. The board shall consider the department's recommendations and may impose conditions in addition to those recommended by the department. The board may impose or modify conditions of community custody following notice to the offender.

(3)(a) Except as provided in (b) of this subsection, no later than ninety days before expiration of the minimum term, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term as provided in RCW 9.95.011.

(b) If at the time the offender's minimum term has expired or will expire within one hundred twenty days of the offender's arrival at a department of correction's facility, then no later than one hundred twenty days after the offender's arrival at a department of corrections facility, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term as provided in RCW 9.95.011.

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(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for the victims of any crimes for which the offender has been convicted to present oral, video, written, or in-person testimony to the board. The procedures for victim input shall be developed by rule. To facilitate victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record are forwarded as part of the judgment and sentence.

Sec. 45. RCW 9.95.440 and 2003 c 218 s 6 are each amended to read as follows:

In the event the board suspends the release status of an offender released under RCW 9.95.420 by reason of an alleged violation of a condition of release, or pending disposition of a new criminal charge, the board may nullify the suspension order and reinstate release under previous conditions or any new conditions the board determines advisable under ((~~RCW 9.94A.713(5)~~)) section 10 of this act. Before the board may nullify a suspension order and reinstate release, it shall determine that the best interests of society and the offender shall be served by such reinstatement rather than return to confinement.

Sec. 46. RCW 46.61.524 and 2006 c 73 s 16 are each amended to read as follows:

((~~(1) A person convicted under RCW 46.61.502(6), 46.61.504(6), 46.61.520(1)(a), or 46.61.522(1)(b) shall, as a condition of community custody imposed under RCW 9.94A.545 or community placement imposed under RCW 9.94A.660, complete a diagnostic evaluation by an alcohol or drug dependency agency approved by the department of social and health services or a qualified probation department, as defined under RCW 46.61.516 that has been approved by the department of social and health services. This report shall be forwarded to the department of licensing. If the person is found to have an alcohol or drug problem that requires treatment, the person shall complete treatment in a program approved by the department of social and health services under chapter 70.96A RCW. If the person is found not to have an alcohol or drug problem that requires treatment, he or she shall complete a course in an information school approved by the department of social and health services under chapter 70.96A RCW. The convicted person shall pay all costs for any evaluation, education, or treatment required by this section, unless the person is eligible for an existing program offered or approved by the department of social and health services. Nothing in chapter 348, Laws of 1991 requires the addition of new treatment or assessment facilities nor affects the department of social and health services use of existing programs and facilities authorized by law.~~

~~(2)~~)) As provided for under RCW 46.20.285, the department shall revoke the license, permit to drive, or a nonresident privilege of a person convicted of vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522. The department shall determine the eligibility of a person convicted of vehicular homicide under RCW 46.61.520(1)(a) or vehicular assault under RCW 46.61.522(1)(b) to receive a license based upon the report provided by the designated alcoholism treatment facility or probation department designated pursuant to section 9(4)(b) of this act, and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified.

Sec. 47. RCW 72.09.015 and 2007 c 483 s 202 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

(3) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in section 52 of this act.

(4) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

((~~(4)~~)) (5) "County" means a county or combination of counties.

((~~(5)~~)) (6) "Department" means the department of corrections.

((~~(6)~~)) (7) "Earned early release" means earned release as authorized by RCW 9.94A.728.

((~~(7)~~)) (8) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

((~~(8)~~)) (9) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

((~~(9)~~)) (10) "Good conduct" means compliance with department rules and policies.

((~~(10)~~)) (11) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

((~~(11)~~)) (12) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

((~~(12)~~)) (13) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

((~~(13)~~)) (14) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the ((~~offenders' [offender's]~~)) offender's risks and needs. The individual reentry plan describes actions that should occur to prepare individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

((~~(14)~~)) (15) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

((~~(15)~~)) (16) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

((~~(16)~~)) (17) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

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((~~(17)~~)) (18) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

((~~(18)~~)) (19) "Secretary" means the secretary of corrections or his or her designee.

((~~(19)~~)) (20) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

((~~(20)~~)) (21) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

((~~(21)~~)) (22) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

((~~(22)~~)) (23) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

((~~(23)~~)) (24) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

((~~(24)~~)) (25) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

Sec. 48. RCW 72.09.270 and 2007 c 483 s 203 are each amended to read as follows:

(1) The department of corrections shall develop an individual reentry plan as defined in RCW 72.09.015 for every offender who is committed to the jurisdiction of the department except:

(a) Offenders who are sentenced to life without the possibility of release or sentenced to death under chapter 10.95 RCW; and

(b) Offenders who are subject to the provisions of 8 U.S.C. Sec. 1227.

(2) The individual reentry plan may be one document, or may be a series of individual plans that combine to meet the requirements of this section.

(3) In developing individual reentry plans, the department shall assess all offenders using standardized and comprehensive tools to identify the criminogenic risks, programmatic needs, and educational and vocational skill levels for each offender. The assessment tool should take into account demographic biases, such as culture, age, and gender, as well as the needs of the offender, including any learning disabilities, substance abuse or mental health issues, and social or behavior deficits.

(4)(a) The initial assessment shall be conducted as early as sentencing, but, whenever possible, no later than forty-five days of being sentenced to the jurisdiction of the department of corrections.

(b) The offender's individual reentry plan shall be developed as soon as possible after the initial assessment is conducted, but, whenever possible, no later than sixty days after completion of the assessment, and shall be periodically reviewed and updated as appropriate.

(5) The individual reentry plan shall, at a minimum, include:

(a) A plan to maintain contact with the inmate's children and family, if appropriate. The plan should determine whether parenting classes, or other services, are appropriate to facilitate successful reunification with the offender's children and family;

(b) An individualized portfolio for each offender that includes the offender's education achievements, certifications, employment, work experience, skills, and any training received prior to and during incarceration; and

(c) A plan for the offender during the period of incarceration through reentry into the community that addresses the needs of the offender including education, employment, substance abuse treatment, mental health treatment, family reunification, and other areas which are needed to facilitate a successful reintegration into the community.

(6)(a) Prior to discharge of any offender, the department shall:

(i) Evaluate the offender's needs and, to the extent possible, connect the offender with existing services and resources that meet those needs; and

(ii) Connect the offender with a community justice center and/or community transition coordination network in the area in which the offender will be residing once released from the correctional system if one exists.

(b) If the department recommends partial confinement in an offender's individual reentry plan, the department shall maximize the period of partial confinement for the offender as allowed pursuant to RCW 9.94A.728 to facilitate the offender's transition to the community.

(7) The department shall establish mechanisms for sharing information from individual reentry plans to those persons involved with the offender's treatment, programming, and reentry, when deemed appropriate. When feasible, this information shall be shared electronically.

(8)(a) In determining the county of discharge for an offender released to community custody ((~~or community placement~~)), the department may not approve a residence location that is not in the offender's county of origin unless it is determined by the department that the offender's return to his or her county of origin would be inappropriate considering any court-ordered condition of the offender's sentence, victim safety concerns, negative influences on the offender in the community, or the location of family or other sponsoring persons or organizations that will support the offender.

(b) If the offender is not returned to his or her county of origin, the department shall provide the law and justice council of the county in which the offender is placed with a written explanation.

(c) For purposes of this section, the offender's county of origin means the county of the offender's first felony conviction in Washington.

(9) Nothing in this section creates a vested right in programming, education, or other services.

Sec. 49. RCW 72.09.345 and 1997 c 364 s 4 are each amended to read as follows:

(1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public concerning offenders convicted of sex offenses.

(2) In order for public agencies to have the information necessary to notify the public as authorized in RCW 4.24.550, the secretary shall establish and administer an end-of-sentence review committee for the purposes of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders. The committee shall assess, on a case-by-case basis, the public risk posed by sex offenders who are: (a) Preparing for their release from confinement for sex offenses committed on or after July 1, 1984; and (b) accepted from another state under a reciprocal agreement under the interstate compact authorized in chapter 72.74 RCW.

(3) Notwithstanding any other provision of law, the committee shall have access to all relevant records and information in the possession of public agencies relating to the offenders under review, including police reports; prosecutors' statements of probable cause; presentence investigations and reports; complete judgments and sentences; current classification referrals; criminal history summaries; violation and disciplinary reports; all psychological evaluations and psychiatric hospital reports; sex offender treatment program reports; and juvenile records. Records and information obtained

under this subsection shall not be disclosed outside the committee unless otherwise authorized by law.

(4) The committee shall review each sex offender under its authority before the offender's release from confinement or start of the offender's term of ((~~community placement or~~)) community custody in order to: (a) Classify the offender into a risk level for the purposes of public notification under RCW 4.24.550; (b) where available, review the offender's proposed release plan in accordance with the requirements of RCW 72.09.340; and (c) make appropriate referrals.

(5) The committee shall classify as risk level I those sex offenders whose risk assessments indicate a low risk of reoffense within the community at large. The committee shall classify as risk level II those offenders whose risk assessments indicate a moderate risk of reoffense within the community at large. The committee shall classify as risk level III those offenders whose risk assessments indicate a high risk of reoffense within the community at large.

(6) The committee shall issue to appropriate law enforcement agencies, for their use in making public notifications under RCW 4.24.550, narrative notices regarding the pending release of sex offenders from the department's facilities. The narrative notices shall, at a minimum, describe the identity and criminal history behavior of the offender and shall include the department's risk level classification for the offender. For sex offenders classified as either risk level II or III, the narrative notices shall also include the reasons underlying the classification.

Sec. 50. RCW 72.09.580 and 1999 c 196 s 12 are each amended to read as follows:

Except as specifically prohibited by other law, and for purposes of determining, modifying, or monitoring compliance with conditions of community custody((~~, community placement, or community supervision as authorized under RCW 9.94A.505 and 9.94A.545~~)), the department:

(1) Shall have access to all relevant records and information in the possession of public agencies relating to offenders, including police reports, prosecutors' statements of probable cause, complete criminal history information, psychological evaluations and psychiatric hospital reports, sex offender treatment program reports, and juvenile records; and

(2) May require periodic reports from providers of treatment or other services required by the court or the department, including progress reports, evaluations and assessments, and reports of violations of conditions imposed by the court or the department.

NEW SECTION. **Sec. 51.** (1) This chapter codifies sentencing provisions that may be applicable to sentences for crimes committed prior to July 1, 2000.

(2) This chapter supplements chapter 9.94A RCW and should be read in conjunction with that chapter.

NEW SECTION. **Sec. 52.** In addition to the definitions set out in RCW 9.94A.030, the following definitions apply for purposes of this chapter:

(1) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(2) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(3) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

NEW SECTION. **Sec. 53.** The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment must be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate

NEW SECTION. **Sec. 54.** A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, vehicular homicide, vehicular assault, assault of a child in the second degree, any crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to RCW 9.94A.728(1).

NEW SECTION. **Sec. 55.** (1) Sections 6 through 58 of this act apply to all sentences imposed or reimposed on or after August 1, 2009, for any crime committed on or after the effective date of this section.

(2) Sections 6 through 58 of this act also apply to all sentences imposed or reimposed on or after August 1, 2009, for crimes committed prior to the effective date of this section, to the extent that such application is constitutionally permissible.

(3) To the extent that application of sections 6 through 58 of this act is not constitutionally permissible with respect to any offender, the sentence for such offender shall be governed by the law as it existed before the effective date of this section, or on such prior date as may be constitutionally required, notwithstanding any amendment or repeal of provisions of such law.

(4) If application of sections 6 through 58 of this act is not constitutionally permissible with respect to any offender, the judgment and sentence shall specify the particular sentencing provisions that will not apply to such offender. Whenever practical, the judgment and sentence shall use the terminology set out in this act.

(5) The sentencing guidelines commission shall prepare a summary of the circumstances under which application of sections 6 through 58 of this act is not constitutionally permissible. The summary should include recommendations of conditions that could be included in judgments and sentences in order to prevent unconstitutional application of the act. This summary shall be incorporated into the *Adult Sentencing Guidelines Manual*.

(6) Sections 6 through 58 of this act shall not affect the enforcement of any sentence that was imposed prior to August 1, 2009, unless the offender is resentenced after that date.

NEW SECTION. **Sec. 56.** (1) The following sections are recodified as part of a new chapter in Title 9 RCW: RCW 9.94A.628, 9.94A.634, 9.94A.700, 9.94A.705, and 9.94A.710.

(2) RCW 9.94A.610 (as amended by this act), 9.94A.612 (as amended by this act), 9.94A.614, 9.94A.616, 9.94A.618, and 9.94A.620 are each recodified as sections in chapter 72.09 RCW.

(3) Sections 51 through 54 of this act are added to the new chapter created in subsection (1) of this section.

(4) The code reviser is authorized to improve the organization of chapter 9.94A RCW by renumbering existing sections and adding subchapter headings.

(5) The code reviser shall correct any cross-references to sections affected by this section in other sections of the code.

NEW SECTION. **Sec. 57.** The following acts or parts of acts are each repealed:

(1) RCW 9.94A.545 (Community custody) and 2006 c 128 s 4, 2003 c 379 s 8, 2000 c 28 s 13, 1999 c 196 s 10, 1988 c 143 s 23, & 1984 c 209 s 22;

(2) RCW 9.94A.713 (Nonpersistent offenders--Conditions) and 2006 c 130 s 1 & 2001 2nd sp.s. c 12 s 304;

(3) RCW 9.94A.715 (Community custody for specified offenders--Conditions) and 2006 c 130 s 2, 2006 c 128 s 5, 2003 c 379 s 6, 2001 2nd sp.s. c 12 s 302, 2001 c 10 s 5, & 2000 c 28 s 25;

(4) RCW 9.94A.720 (Supervision of offenders) and 2003 c 379 s 7, 2002 c 175 s 14, & 2000 c 28 s 26;

(5) RCW 9.94A.800 (Sex offender treatment in correctional facility) and 2000 c 28 s 34;

(6) RCW 9.94A.830 (Legislative finding and intent--Commitment of felony sexual offenders after July 1, 1987) and 1987 c 402 s 2 & 1986 c 301 s 1; and

(7) RCW 79A.60.070 (Conviction under RCW 79A.60.050 or 79A.60.060--Community supervision or community placement--Conditions) and 2000 c 11 s 96 & 1998 c 219 s 3.

NEW SECTION. **Sec. 58.** The repealers in section 57 of this act shall not affect the validity of any sentence that was imposed prior to the effective date of this section or the authority of the department of corrections to supervise any offender pursuant to such sentence.

NEW SECTION. **Sec. 59.** The code reviser shall report to the 2009 legislature on any amendments necessary to accomplish the purposes of this act.

NEW SECTION. **Sec. 60.** Section 24 of this act expires July 1, 2010.

NEW SECTION. **Sec. 61.** Sections 6 through 60 of this act take effect August 1, 2009.

NEW SECTION. **Sec. 62.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

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, Hargrove and McCaslin to House Bill No. 2719.

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 "sentences;" strike the remainder of the title and insert "amending RCW 9.94A.500, 9.94A.530, 9.94A.737, 9.94A.740, 9.94A.501, 9.94A.505, 9.94A.610, 9.94A.612, 9.94A.625, 9.94A.650, 9.94A.670, 9.94A.690, 9.94A.728, 9.94A.760, 9.94A.775, 9.94A.780, 9.94A.820, 4.24.556, 9.95.017, 9.95.064, 9.95.110, 9.95.123, 9.95.420, 9.95.440, 46.61.524, 72.09.015, 72.09.270, 72.09.345, and 72.09.580; reenacting and amending RCW 9.94A.525, 9.94A.030, 9.94A.660, and 9.94A.712; adding new sections to chapter 9.94A RCW; adding new sections to chapter 72.09 RCW; adding a new chapter to Title 9 RCW; creating new sections; recodifying RCW 9.94A.628, 9.94A.634, 9.94A.700, 9.94A.705, 9.94A.710, 9.94A.610, 9.94A.612, 9.94A.614, 9.94A.616, 9.94A.618, and 9.94A.620; repealing RCW 9.94A.545, 9.94A.713, 9.94A.715, 9.94A.720, 9.94A.800, 9.94A.830, and 79A.60.070; providing an effective date; and providing an expiration date."

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2719 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 House Bill No. 2719 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2719 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 Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

HOUSE BILL NO. 2719 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

March 11, 2008

MR. PRESIDENT:

The Speaker ruled the Senate amendment beyond the Scope & Object of the bill. The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2788 and asks Senate to recede therefrom.
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 2788.

The President declared the question before the Senate to be motion by Senator Jacobsen that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 2788.

The motion by Senator Jacobsen carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 2788 by voice vote.

MOTION

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On motion of Senator Jacobsen, the rules were suspended and Substitute House Bill No. 2788 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2788, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives VanDeWege, Blake, Orcutt, Kretz, Nelson, Grant, Williams, Eickmeyer, Linville and McCoy)

Organizing definitions in Title 77 RCW.

The measure was read the second time.

MOTION

Senator Jacobsen moved that the following striking amendment by Senator Jacobsen be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The code reviser is directed to put the defined terms in RCW 77.08.010 in alphabetical order.

Sec. 2. RCW 77.08.010 and 2007 c 350 s 2 and 2007 c 254 s 1 are each reenacted and amended to read as follows:

((~~As used in~~)) The definitions in this section apply throughout this title or rules adopted under this title((~~,~~)) unless the context clearly requires otherwise((~~:~~)).

(1) "Director" means the director of fish and wildlife.

(2) "Department" means the department of fish and wildlife.

(3) "Commission" means the state fish and wildlife commission.

(4) "Person" means and includes an individual; a corporation; a public or private entity or organization; a local, state, or federal agency; all business organizations, including corporations and partnerships; or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.

(5) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol officer.

(6) "Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

(7) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.

(8) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

(9) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.

(10) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

(11) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission as an open season.

(12) "Closed area" means a place where the hunting of some or all species of wild animals or wild birds is prohibited.

(13) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing or harvesting is prohibited.

(14) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

(15) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

(16) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, old world rats and mice of the family Muridae of the order Rodentia, or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

(17) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state and the species Rana catesbeiana (bullfrog). The term "wild animal" does not include feral domestic mammals or old world rats and mice of the family Muridae of the order Rodentia.

(18) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

(19) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

(20) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

(21) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

(22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

(23) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

(24) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

(25) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

(26) "Game farm" means property on which wildlife is held or raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

(27) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.

(28) "Raffle" means an activity in which tickets bearing an individual number are sold for not more than twenty-five dollars each and in which a permit or permits are awarded to hunt or for access to hunt big game animals or wild turkeys on the basis of a drawing from the tickets by the person or persons conducting the raffle.

(29) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

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(30) "Senior" means a person seventy years old or older.
(31) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.
(32) "Saltwater" means those marine waters seaward of river mouths.
(33) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.
(34) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.
(35) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.
(36) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.
(37) "Resident" means:
(a) A person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, and who is not licensed to hunt or fish as a resident in another state; and
(b) A person age eighteen or younger who does not qualify as a resident under (a) of this subsection, but who has a parent that qualifies as a resident under (a) of this subsection.
(38) "Nonresident" means a person who has not fulfilled the qualifications of a resident.
(39) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.
(40) "Commercial" means related to or connected with buying, selling, or bartering.
(41) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.
(42) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.
(43) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a hand-held line operated without rod or reel.
(44) "Fishery" means the taking of one or more particular species of fish or shellfish with particular gear in a particular geographical area.
(45) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.
(46) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.
(47) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.
(48) "Invasive species" means a plant species or a nonnative animal species that either:
(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;
(b) Threatens or may threaten natural resources or their use in the state;
(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or
(d) Threatens or harms human health.
(49) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.
(50) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.
(51) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.
(52) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.
(53) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.
(54) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.
(55) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under subsections (48) through (53) of this section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).
(56) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors."

Senator Jacobsen 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 Jacobsen to Substitute House Bill No. 2788.

The motion by Senator Jacobsen 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 "RCW;" strike the remainder of the title and insert "reenacting and amending RCW 77.08.010; and creating a new section."

MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 2788 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 Morton 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. 2788 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2788 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Voting nay: Senator Fraser - 1

SUBSTITUTE HOUSE BILL NO. 2788 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.

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PERSONAL PRIVILEGE

Senator Fairley: “Thank you Mr. President. Well, as I came in to the Leg Building today I realized that we do some bills that really make a change in our lives that are little things but matter a whole lot and that’s the gift shop down stairs. I wanted to say how nice it is to walk in and instead of being faced with this dark, marble, big, awesome thing that just feels oppressive. Now we’re, it’s a very beautifully done gift shop and it has provided a lot of shopping opportunities for a certain Senator who’s in front of me here. Senator McAulifee, not to name names. Some of us find it very enjoyable to go in and buy a card that we forgotten to get for somebody or buy a little present. It holds items that you can’t get anywhere else and I know the tourists coming here are going to really enjoy shopping there. I just wanted to say that it’s little things like that that make a big deal of difference.”

PERSONAL PRIVILEGE

Senator McAuliffe: “Thank you. I’d like to speak up in support of the gift shop as well. I am their best customer...”

REMARKS BY THE PRESIDENT

President Owen: “They don’t sell shoes but maybe they would?”

PERSONAL PRIVILEGE

Senator McAuliffe: “I’m going to suggest they do. In the future they will. But I do want people to know they have many wonderful gifts, tribal jewelry and it’s very exciting so, also the Sine Die shirts, so ya all go down there. Thank you so much.”

REMARKS BY THE PRESIDENT

President Owen: “Thank you and Ladies and Gentlemen this portion of the Washington State Senate has been brought to you by the Legislative Gift Shop. Now, a word from our sponsor. The Legislative Gift Shop will be open year round.”

PARLIAMENTARY INQUIRY

Senator Honeyford: “Well, thank you Mr. President, in Rotary we fine for commercials. Is that permissible in the legislature?”

REMARKS BY THE PRESIDENT

President Owen: “It certainly would be a good rule to put up for consideration.”

MESSAGE FROM THE HOUSE

March 11, 2008

MR. PRESIDENT:
The House insists on its position regarding the House amendment(s) to ENGROSSED SUBSTITUTE SENATE BILL NO. 6760 and again asks Senate to concur therein.
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Regala moved that the Senate recede from it’s do not Concur position and concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6760.

The President declared the question before the Senate to be motion by Senator Regala that the Senate recede from it’s do not concur position and concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6760.

The motion by Senator Regala carried and the Senate receded from it’s do not concur position and concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6760.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6760, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6760, 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 Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SUBSTITUTE SENATE BILL NO. 6760, 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

At 12:02 p.m., on motion of Senator Eide, the Senate was recessed until 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by the President Pro Tempore.

MESSAGE FROM THE HOUSE

March 12, 2008

MR. PRESIDENT:
The House has passed the following bills:
SENATE BILL NO. 6375,
SENATE BILL NO. 6628,
ENGROSSED SENATE BILL NO. 6629,
SUBSTITUTE SENATE BILL NO. 6828,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 12, 2008

MR. PRESIDENT:

The Speaker has signed the following bills:
SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5100,
SUBSTITUTE SENATE BILL NO. 5104,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5261,
SUBSTITUTE SENATE BILL NO. 5524,
SECOND SUBSTITUTE SENATE BILL NO. 5642,
SUBSTITUTE SENATE BILL NO. 5651,
SENATE BILL NO. 5868,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6111,
SENATE BILL NO. 6187,
SENATE BILL NO. 6215,
SENATE BILL NO. 6261,
SENATE BILL NO. 6289
SUBSTITUTE SENATE BILL NO. 6297,
SENATE BILL NO. 6310,
SUBSTITUTE SENATE BILL NO. 6328,
SENATE BILL NO. 6381,
SUBSTITUTE SENATE BILL NO. 6400,
SUBSTITUTE SENATE BILL NO. 6439,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6442,
SENATE BILL NO. 6447,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6560,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6570,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6580,
SUBSTITUTE SENATE BILL NO. 6596,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6606,
SUBSTITUTE SENATE BILL NO. 6607,
SECOND SUBSTITUTE SENATE BILL NO. 6626,
SUBSTITUTE SENATE BILL NO. 6711,
SECOND SUBSTITUTE SENATE BILL NO. 6732,
SENATE BILL NO. 6739,
SUBSTITUTE SENATE BILL NO. 6743,
SUBSTITUTE SENATE BILL NO. 6751,
SUBSTITUTE SENATE BILL NO. 6761,
SUBSTITUTE SENATE BILL NO. 6804,
SUBSTITUTE SENATE BILL NO. 6805,
SUBSTITUTE SENATE BILL NO. 6807,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6874,
SUBSTITUTE SENATE BILL NO. 6932,
SUBSTITUTE SENATE BILL NO. 6933,
SENATE BILL NO. 6941,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 12, 2008

MR. PRESIDENT:
The House has adopted the report of Conference Committee on ENGROSSED SUBSTITUTE HOUSE BILL NO. 2878, and has passed the bill as recommended by the Conference Committee.
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Berkey moved that Gubernatorial Appointment No. 9273, David Valdez, as a member of the Board of Trustees, Central Washington University, be confirmed.

Senator Berkey spoke in favor of the motion.

MOTION

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

APPOINTMENT OF DAVID VALDEZ

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9273, David Valdez as a member of the Board of Trustees, Central Washington University.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9273, David Valdez as a member of the Board of Trustees, Central Washington University and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 2; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Absent: Senators Haugen and Keiser - 2

Gubernatorial Appointment No. 9273, David Valdez, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Central Washington University.

MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

MOTION

On motion of Senator Regala, Senators Haugen and Keiser were excused.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Pridemore moved that Gubernatorial Appointment No. 9274, Paul Winters, as a member of the Board of Trustees, The Evergreen State College, be confirmed.

Senator Pridemore spoke in favor of the motion.

APPOINTMENT OF PAUL WINTERS

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9274, Paul Winters as a member of the Board of Trustees, The Evergreen State College.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9274, Paul Winters 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 Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Haugen and Keiser - 2

Gubernatorial Appointment No. 9274, Paul Winters, 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 Marr moved that Gubernatorial Appointment No. 9373, Martina Whelshula, as a member of the Board of Trustees, The Evergreen State College, be confirmed.

Senator Marr spoke in favor of the motion.

APPOINTMENT OF MARTINA WHELSHULA

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9373, Martina Whelshula as a member of the Board of Trustees, The Evergreen State College.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9373, Martina Whelshula as a member of the Board of Trustees, The Evergreen State College and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

Gubernatorial Appointment No. 9373, Martina Whelshula, 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 Delvin moved that Gubernatorial Appointment No. 9298, Renee Finke, as a member of the Board of Trustees, Columbia Basin Community College District No. 19, be confirmed.

Senator Delvin spoke in favor of the motion.

APPOINTMENT OF RENEE FINKE

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9298, Renee Finke as a member of the Board of Trustees, Columbia Basin Community College District No. 19.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9298, Renee Finke as a member of the Board of Trustees, Columbia Basin Community College District No. 19 and the appointment was confirmed by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

Gubernatorial Appointment No. 9298, Renee Finke, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Columbia Basin Community College District No. 19.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Spanel moved that Gubernatorial Appointment No. 9346, Barbara Rofkar, as a member of the Board of Trustees, Whatcom Community College District No. 21, be confirmed.

Senator Spanel spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senators Fraser, McDermott and Murray were excused.

APPOINTMENT OF BARBARA ROFKAR

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9346, Barbara Rofkar as a member of the Board of Trustees, Whatcom Community College District No. 21.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9346, Barbara Rofkar as a member of the Board of Trustees, Whatcom Community College District No. 21 and the appointment was confirmed by the following vote: Yeas, 44; Nays, 1; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McCaslin, Morton, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 44

Voting nay: Senator Honeyford - 1

Absent: Senator McAuliffe - 1

Excused: Senators Fraser, McDermott and Murray - 3

Gubernatorial Appointment No. 9346, Barbara Rofkar, having received the constitutional majority was declared

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confirmed as a member of the Board of Trustees, Whatcom Community College District No. 21.

MOTION

At 1:59 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:30 p.m. by President Owen.

MOTION

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

MESSAGE FROM THE HOUSE

March 12, 2008

MR. PRESIDENT:
The Speaker has signed the following bills:
SUBSTITUTE HOUSE BILL NO. 1141,
THIRD SUBSTITUTE HOUSE BILL NO. 2053,
HOUSE BILL NO. 2460,
HOUSE BILL NO. 2467,
ENGROSSED HOUSE BILL NO. 2476,
SECOND SUBSTITUTE HOUSE BILL NO. 2479,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2480,
SUBSTITUTE HOUSE BILL NO. 2482,
HOUSE BILL NO. 2542,
HOUSE BILL NO. 2544,
SUBSTITUTE HOUSE BILL NO. 2551,
SECOND SUBSTITUTE HOUSE BILL NO. 2635,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2647,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2668,
HOUSE BILL NO. 2678,
SUBSTITUTE HOUSE BILL NO. 2679,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2712,
SECOND SUBSTITUTE HOUSE BILL NO. 2722,
SUBSTITUTE HOUSE BILL NO. 2729,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2783,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2817,
SUBSTITUTE HOUSE BILL NO. 3120,
SUBSTITUTE HOUSE BILL NO. 3144,
SUBSTITUTE HOUSE BILL NO. 3149,
SECOND SUBSTITUTE HOUSE BILL NO. 3168,
HOUSE BILL NO. 3188,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3205,
SUBSTITUTE HOUSE BILL NO. 3212,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3254,
HOUSE BILL NO. 3375,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

SECOND READING

ENGROSSED HOUSE BILL NO. 3381, by House Committee on Appropriations (originally sponsored by Representative Sommers)

Relating to fees to implement programs that protect and improve Washington's health, safety, education, employees, and consumers.

The measure was read the second time.

MOTION

Senator Rasmussen moved the amendment by Senators Rasmussen and Schoesler on page 15, line 26 to Engrossed House Bill No. 3381 be withdrawn.

MOTION

Senator Schoesler moved that the following amendment by Senators Rasmussen and Schoesler be adopted.

On page 15, line 26, after "INSPECTION." strike all material through line 3 on page 16 and insert the following:

"(1) The director may adopt rules establishing fees for conducting special inspections of poultry or poultry facilities that the director may provide at the request of the poultry owner or individual managing such animals.

(2) The fees shall, as closely as practical, cover the cost of the service provided.

(3) Persons requesting facility approval or inspections under this section are responsible for payment of fees for requested services. All fees collected under this section shall be deposited in an account in the agricultural local fund and used to carry out the purposes of this chapter."

Senators Schoesler and Rasmussen spoke in favor of adoption of the amendment.

Senator Pridemore spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Rasmussen and Schoesler on page 15, line 26 to Engrossed House Bill No. 3381.

The motion by Senator Schoesler failed and the amendment was not adopted by voice vote.

POINT OF ORDER

Senator Schoesler: "Thank you Mr. President. I believe that this bill is not properly before us and I have some arguments to offer. Initiative 960 provides that no fee may be imposed or increased in any fiscal year without prior legislative approval. It appears that several sections of this bill authorize agencies to increase fees beyond a fiscal year in violation of Initiative 960. For example; section thirteen of the bill allows the Department of Health to annually increase application and renewal fees. In addition, several sections of the bill direct an agency to establish or increase fees as necessary. Mr. President, it appears to me that this allows an agency to increase fees beyond the fiscal year in violation of Initiative 960. I have remarks I can submit to you."

Senator Prentice spoke against the point of order.

REMARKS BY THE PRESIDENT

Draft

President Owen: "The President, and bear with the President because I'm going to try to state this correctly, Senator Schoesler's point of order was, specifically, whether or not the issue is properly before us. His argument were really not pertinent to the matter about whether or not this bill is properly before us at this time. It is the Senate's prerogative to bring any measure before the body to deal with. His arguments are more appropriate at a later point in the process. Therefore, Senator Schoesler, your point of order is not well taken and the measure is appropriately before us at this time."

MOTION

Senator Zarelli moved that the following amendment by Senators Zarelli and Benton be adopted.

On page 16, after line 26, insert the following:

"NEW SECTION. **Sec. 31.** In accordance with RCW 43.135.055, authorization to impose fee increases under this act expires June 30, 2009."

Renumber the sections consecutively and correct any internal references accordingly.

Senators Zarelli, Benton and Pflug spoke in favor of adoption of the amendment.

Senators Prentice, Pridemore and Brown spoke against adoption of the amendment.

Senator Zarelli 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 Senators Zarelli and Benton on page 16, after line 26 to Substitute House Bill No. 3381.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senators Zarelli and Benton and the amendment was not adopted by the following vote: Yeas, 19; Nays, 30; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Kilmer, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 19

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 30

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 3381 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 bill.

POINT OF ORDER

Senator Schoesler: "I believe that this bill is not properly before us for final passage and I have arguments to offer. Mr. President, Initiative 960 provides that no fee may be imposed or increased in any fiscal year without prior legislative approval. It appears that several sections of this bill authorizes agencies to increase fees beyond a fiscal year it clear violation of Initiative 960. For example; section thirteen of the bill allows the Department of Health to annually increase application and renewal fees. In addition several sections of the bill directing agencies to establish or increase fees as necessary. Mr. President, it appears to me this allows agencies to increase fees beyond the fiscal year in violation of Initiative 960. It also seems clear to me that it would require a two-thirds vote as it would amend Initiative 960."

Senator Brown spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of Engrossed House Bill No. 3381 was deferred and the bill held its place on the third reading calendar.

SECOND READING

SENATE BILL NO. 6657, by Senators Murray, Fraser and Rasmussen

Including salary bonuses for individuals certified by the national board for professional teaching standards as earnable compensation.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, Senate Bill No. 6657 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Prentice spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6657.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6657 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SENATE BILL NO. 6657, 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:
SUBSTITUTE HOUSE BILL NO. 1141,
THIRD SUBSTITUTE HOUSE BILL NO. 2053,
HOUSE BILL NO. 2460,
HOUSE BILL NO. 2467,

draft

ENGROSSED HOUSE BILL NO. 2476,
SECOND SUBSTITUTE HOUSE BILL NO. 2479,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2480,
SUBSTITUTE HOUSE BILL NO. 2482,
HOUSE BILL NO. 2542,
HOUSE BILL NO. 2544,
SUBSTITUTE HOUSE BILL NO. 2551,
SECOND SUBSTITUTE HOUSE BILL NO. 2635,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2647,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2668,
HOUSE BILL NO. 2678,
SUBSTITUTE HOUSE BILL NO. 2679,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2712,
SECOND SUBSTITUTE HOUSE BILL NO. 2722,
SUBSTITUTE HOUSE BILL NO. 2729,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2783,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2817,
SUBSTITUTE HOUSE BILL NO. 3120,
SUBSTITUTE HOUSE BILL NO. 3144,
SUBSTITUTE HOUSE BILL NO. 3149,
SECOND SUBSTITUTE HOUSE BILL NO. 3168,
HOUSE BILL NO. 3188,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3205,
SUBSTITUTE HOUSE BILL NO. 3212,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3254,
HOUSE BILL NO. 3375

MOTION

On motion of Senator Eide, Senate Bill No. 6657 was immediately transmitted to the House of Representatives.

RULING BY THE PRESIDENT

President Owen: “In ruling upon the point of order raised by Senator Honeyford that the House amendments to Substitute Senate Bill 6231 are beyond the scope and object of the underlying bill, the President finds and rules as follows:

The President begins with the argument that the geographic limitations of the original bill are very different from those found in the House amendments. The President believes that the geographic description in the Senate version is sufficiently open so as to encompass the House’s language. This may have policy significance, but it is not dispositive in deciding scope and object. Instead, the President looks at the four-corners of the bill as it left the Senate and compares this with the changes made in the House.

The bill as it left the Senate establishes a work group to study and make recommendation as to marine protected areas. The House changes essentially keep this work group, but also contain some substantive provisions relating to the Puget Sound Partnership, including directing the Partnership to develop a plan that will have the force and effect of law. While it is permissible for the Partnership to be a part of the work group and make recommendations, adoption of a plan which will make substantive law goes beyond simply studying marine protection areas and making recommendations back to the legislature. It is these substantive provisions of law which are impermissibly broad.

For these reasons, the President finds that the House amendments are beyond the scope and object of the underlying bill, and Senator Honeyford’s point is well-taken.

MOTION

On motion of Senator Eide, further consideration of Substitute Senate Bill No. 6231 was deferred and the bill held its place on the concurrence calendar.

RULING BY THE PRESIDENT

President Owen: “In ruling upon the point of order raised by Senator Honeyford that the House amendments to Engrossed Substitute Senate Bill 5959 are beyond the scope and object of the underlying bill, the President finds and rules as follows:

The underlying bill as it left the Senate essentially codifies the Transitional Housing Operating and Rent, or “THOR,” program to operate within the Department of Community, Trade and Economic Development. The House amendments codify the THOR program, but also, among other things, create an Affordable Housing for All Program, address the affordability of earthquake insurance, provide low income housing relocation funds, create a loan program for affordable housing, and set forth Ending Homelessness Act provisions.

THOR, at its heart, is generally a grant, treatment, and transitional program, not a comprehensive affordable housing plan. Many of the provisions of the House amendments—for example, the housing communities program, housing infrastructure program, and strategies to reduce construction liability and earthquake insurance costs—go far beyond the scope and object of the Senate bill’s codification of the THOR program.

The President is mindful that certain members have requested that this ruling address the individual provisions or policies within the amendments that might be within the scope and object of the original bill. It is very difficult, and would be very time consuming, to analyze each and every section. In general, however, the President would offer this guidance: Very generally, the THOR program is aimed at providing practical and immediate assistance to the homeless or those at risk of becoming homeless, and this is the program contained within the Senate bill. Additional provisions which are similarly aimed at practical and immediate assistance would likely be within the scope and object of the Senate bill.

By contrast, many of the provisions added by the House amendments are aimed more at systemic causes of homelessness, such as affordable housing or insurance costs. While these are related subjects, these affordable housing and insurance concerns, for example, are insufficiently related to the Senate bill than the more immediate assistance provided by the THOR program. Such comprehensive and systemic plans are less likely to fit within the Senate bill.

For these reasons the President finds that the House amendments are beyond the scope and object of the underlying bill and Senator Honeyford’s point is well taken.”

MOTION

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

The Senate resumed consideration of Engrossed Substitute Senate Bill No. 5959 which had been deferred earlier in the day.

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5959 and ask the House to recede therefrom.

Senators Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5959 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5959 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 10, 2008

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3145 and asks Senate to recede therefrom.
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 3145.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 3145.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 3145 by voice vote.

MOTION

On motion of Senator Hargrove, the rules were suspended and Engrossed Second Substitute House Bill No. 3145 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3145, by House Committee on Appropriations (originally sponsored by Representatives Kagi, Haler, Roberts, Walsh, Pettigrew, Dickerson, Conway, Green, Goodman, Kenney, Wood and Ormsby)

Implementing a tiered classification system for foster parent licensing.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 74.13 RCW to read as follows:

The legislature finds that out-of-home care providers are an essential partner in the child welfare system, with responsibility for the care of vulnerable children whose families are unable to meet their needs. Because children who enter the out-of-home care system have experienced varying degrees of stress and trauma before placement, providers sometimes are called upon to provide care for children with significant behavioral challenges and intensive developmental needs. Other children who enter out-of-home care may require extraordinary care due to health care needs or medical fragility. The legislature also finds that providers with specialized skills and experience, or professional training and expertise, can contribute significantly to a child's well-being by promoting placement stability and supporting the child's developmental growth while in out-of-home care. The legislature intends to implement an intensive resource home pilot to enhance the continuum of care options and to promote permanency and positive outcomes for children served in the child welfare system by authorizing the department to contract for intensive resource home services on a pilot basis.

NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13 RCW to read as follows:

(1) The department shall select two geographic areas with high concentrations of children with significant needs in out-of-home care for implementing an intensive resource home pilot. In choosing the pilot sites, the department shall: (a) Examine areas where there are concentrations of children with significant behavioral challenges and intensive developmental or medical needs who are being served in family foster homes; (b) consider sites of appropriate size that will allow for careful analysis of the impact of the intensive resource home pilot on the array of out-of-home care providers, including providers of behavioral rehabilitation services; and (c) determine the number of children to be served in these selected sites. Implementation of the program at the pilot sites also shall be structured to support the long-term goal of eventual expansion of the pilot statewide.

(2) Based on the information gathered by the work group convened under chapter 413, Laws of 2007, and the additional information gathered pursuant to this section, the department shall work collaboratively in:

(a) Seeking recommendations from foster parents and other out-of-home service providers, including child placing agencies, regarding the qualifications and requirements of intensive resource home providers, the needs of the children to be served, and the desired outcomes to be measured or monitored at the respective pilot sites; and

(b) Consulting with experts in child welfare, children's mental health, and children's health care to identify the evidence-based or promising practice models to be employed in the pilot and the appropriate supports to ensure program fidelity, including, but not limited to, the necessary training and clinical consultation and oversight to be provided to intensive resource homes.

(3) Using the recommendations from foster parents, the consultations with professionals as required in subsection (2)(a) and (b) of this section, and the information provided in the report to the legislature under chapter 413, Laws of 2007, including the information presented to the work group convened to prepare and present the report, the department shall implement the pilot by entering into contracts with no more than seventy-five providers who are determined by the department to meet the eligibility criteria for the intensive resource home pilot. The department shall:

(a) Define the criteria for intensive resource home providers, which shall include a requirement that the provider be licensed by the department as a foster parent, as well as meet additional requirements relating to relevant experience, education, training, and professional expertise necessary to meet the high needs of children identified as eligible for this pilot;

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(b) Define criteria for identifying children with high needs who may be eligible for placement with an intensive resource home provider. Such criteria shall be based on the best interests of the child and include an assessment of the child's past and current level of functioning as well as a determination that the child's treatment plan and developmental needs are consistent with the placement plan;

(c) Establish a policy for placement of children with high needs in intensive resource homes, including a process for matching the child's needs with the provider's skills and expertise;

(d) Establish a limit on the number and ages of children with high needs that may be placed in an intensive resource home pursuant to the pilot contract. Such limitation shall recognize that children with externalizing behaviors are most likely to experience long-term improvements in their behavior when care is provided in settings that minimize exposure to peers with challenging behaviors;

(e) Identify one or more approved models of skill building for use by intensive resource home providers, with the assistance of other child welfare experts;

(f) Specify the training and consultation requirements that support the models of service;

(g) Establish a system of supports, including clinical consultation and oversight for intensive resource homes;

(h) Develop a tiered payment system, by September 30, 2008, which may include a stipend to the provider, which takes into account the additional responsibilities intensive resource home providers have with regard to the children placed in their care. Until such time as the department has developed the tiered payment system, money for exceptional cost plans shall be used only for special services or supplies provided to the child and shall not be used to reimburse the provider for services he or she provides to the child. A stipend of not more than five hundred dollars per month may be used to reimburse the provider for services he or she provides directly to the child;

(i) Establish clearly defined responsibilities of intensive resource home providers, who have an intensive resource home contract including responsibilities to promote permanency and connections with birth parents; and

(j) Develop a process for annual performance reviews of intensive resource home providers.

(4) Contracts between the department and an intensive resource home provider shall include a statement of work focusing on achieving stability in placement and measuring improved permanency outcomes and shall specify at least the following elements:

(a) The model of treatment and care to be provided;

(b) The training and ongoing professional consultation to be provided;

(c) The method for determining any additional supports to be provided to an eligible child or the intensive resource home provider;

(d) The desired outcomes to be measured;

(e) A reasonable and efficient process for seeking a modification of the contract;

(f) The rate and terms of payment under the contract; and

(g) The term of the contract and the processes for an annual performance review of the intensive resource home provider and an annual assessment of the child.

(5) Beginning on or before October 1, 2008, the department shall begin the selection of, and negotiation of contracts with, intensive resource home providers in the selected pilot sites.

(6) Nothing in this act gives a provider eligible under this section the right to a contract under the intensive resource home pilot, and nothing in this act gives a provider that has a contract under the pilot a right to have a child or children placed in the home pursuant to the contract.

(7) "Intensive resource home provider" means a provider who meets the eligibility criteria developed by the department under this section and who has an intensive resource home pilot contract with the department.

(8) The department shall report to the governor and the legislature by January 30, 2009, on the implementation of the pilot, including how the pilot fits within the continuum of out-of-home care options. Based on the experiences and lessons learned from implementation of the pilot, the department shall recommend a process and timeline for expanding the pilot and implementing it statewide. The department shall report to the governor and the appropriate members of the legislature by September 1, 2009, on the expansion, and shall identify the essential elements of the intensive resource home pilot that should be addressed or replicated if the pilot is expanded.

(9) The department shall operate this pilot using only funds appropriated specifically for the operation of this pilot. The term "specifically for the operation of this pilot" includes only those costs associated with the following: The administration of the pilot, the stipend to eligible intensive resource home providers, training for the providers, consultation for the providers, and program review consultation.

NEW SECTION. **Sec. 3.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition of federal funds which support the operations and services provided by the department of social and health services, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. **Sec. 4.** Of the amounts appropriated in the omnibus appropriations act of 2008 for implementation of this act, referencing this act by bill or chapter number, the department shall allocate two hundred thousand dollars to contract with an agency which is working in partnership with, and has been evaluated by, the University of Washington school of social work to implement promising practice constellation hub models of foster care support in areas of the state not currently served by this model, unless otherwise specified in the omnibus appropriations act of 2008."

Senators Hargrove 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 Hargrove and Stevens to Engrossed Second Substitute House Bill No. 3145.

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 2 of the title, after "licensing;" strike the remainder of the title and insert "adding new sections to chapter 74.13 RCW; and creating new sections."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Second Substitute House Bill No. 3145 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 Regala, Senator Brown was excused.

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The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 3145 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 3145 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Absent: Senator Delvin - 1

Excused: Senator Brown - 1

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3145 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

On motion of Senator McCaslin, Senator Delvin was excused.

The Senate resumed consideration of Substitute Senate Bill No. 6231 which had been deferred earlier in the day.

MOTION

Senator Jacobsen moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6231 and ask the House to recede therefrom.

Senators Jacobsen and Morton spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Jacobsen that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6231 and ask the House to recede therefrom.

The motion by Senator Jacobsen carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6231 and asked the House to recede therefrom by voice vote.

MOTION

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3303, by House Committee on Finance (originally sponsored by Representatives Grant, Walsh, Haler and Linville)

Providing a business and occupation tax credit for qualified preproduction development expenditures for polysilicon manufacturers. Revised for 1st Substitute: Concerning tax incentives for certain polysilicon manufacturers.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Substitute House Bill No. 3303 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Delvin 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. 3303.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3303 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Brown - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3303, 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 4:35 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 5:41 p.m. by President Owen.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the points of order raised by Senator Schoesler as to the application of Initiative Number 960 to Engrossed House Bill 3381, the President finds and rules as follows:

The President believes it is appropriate to restate the arguments made by Senator Schoesler, because there was some confusion on the Floor. Senator Schoesler does not argue that this measure takes a 2/3 vote because it raises taxes under I-960. Instead, he argues, first, that a 2/3 vote is needed because this measure amends I-960 within two years of its enactment; and second, that the measure violates I-960 because certain provisions impose or increase fees beyond the current fiscal year.

With respect to amending the initiative, the President finds that no statutory language of I-960 is amended by this measure. Senator Schoesler's argument as to an indirect amendment is a legal argument, and the President has consistently refrained from making legal decisions.

Likewise, with respect to the imposition of fees beyond the fiscal year, it is debatable whether this measure does or does not impose some fees beyond the current fiscal year. Whatever the merits of this argument, however, this would again be a legal

Draft

determination, not a parliamentary question.

For these reasons, Senator Schoesler's points are not well-taken, the measure is properly before us and will take only a simple majority vote for final passage."

MOTION

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

The Senate resumed consideration of Engrossed House Bill No. 3381 which had been deferred earlier in the day.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 3381.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3381 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 28

Voting nay: Senators Benton, Brandland, Carrell, Delvin, Haugen, Hewitt, Holmquist, Honeyford, Kilmer, King, McCaslin, Morton, Parlette, Pflug, Rasmussen, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 21

ENGROSSED HOUSE BILL NO. 3381, 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.

REPORT OF THE CONFERENCE COMMITTEE
Engrossed Second Substitute House Bill No. 3139
March 11, 2008

MR. PRESIDENT:
MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Second Substitute House Bill No. 3139, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 51.52.050 and 2004 c 243 s 8 are each amended to read as follows:

(1) Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, which shall be addressed to such person at his or her last known address as shown by the records of the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award shall become final within sixty days from the date the order is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia((~~: PROVIDED, That~~)). However, a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker, shall state that such order or decision shall become final within twenty days from the date the order or decision is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia.

(2)(a) Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may request reconsideration of the department, or may appeal to the board. In an appeal before the board, the appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal((~~: PROVIDED, That~~)).

(b) An order by the department awarding benefits shall become effective and benefits due on the date issued. Subject to (b)(i) and (ii) of this subsection, if the department order is appealed the order shall not be stayed pending a final decision on the merits unless ordered by the board. Upon issuance of the order granting the appeal, the board will provide the worker with notice concerning the potential of an overpayment of benefits paid pending the outcome of the appeal and the requirements for interest on unpaid benefits pursuant to RCW 51.52.135. A worker may request that benefits cease pending appeal at any time following the employer's motion for stay or the board's order granting appeal. The request must be submitted in writing to the employer, the board, and the department. Any employer may move for a stay of the order on appeal, in whole or in part. The motion must be filed within fifteen days of the order granting appeal. The board shall conduct an expedited review of the claim file provided by the department as it existed on the date of the department order. The board shall issue a final decision within twenty-five days of the filing of the motion for stay or the order granting appeal, whichever is later. The board's final decision may be appealed to superior court in accordance with RCW 51.52.110. The board shall grant a motion to stay if the moving party demonstrates that it is more likely than not to prevail on the facts as they existed at the time of the order on appeal. The board shall not consider the likelihood of recoupment of benefits as a basis to grant or deny a motion to stay. If a self-insured employer prevails on the merits, any benefits paid may be recouped pursuant to RCW 51.32.240.

(i) If upon reconsideration requested by a worker or medical provider, the department has ordered an increase in a permanent partial disability award from the amount reflected in an earlier order, the award reflected in the earlier order shall not be stayed pending a final decision on the merits. However, the increase is stayed without further action by the board pending a final decision on the merits.

(ii) If any party appeals an order establishing a worker's wages or the compensation rate at which a worker will be paid temporary or permanent total disability or loss of earning power benefits, the worker shall receive payment pending a final decision on the merits based on the following:

(A) When the employer is self-insured, the wage calculation or compensation rate the employer most recently submitted to the department; or

(B) When the employer is insured through the state fund, the highest wage amount or compensation rate uncontested by the parties.

Payment of benefits or consideration of wages at a rate that is higher than that specified in (b)(ii)(A) or (B) of this subsection is stayed without further action by the board pending a final decision on the merits.

(c) In an appeal from an order of the department that alleges willful misrepresentation, the department or self-insured employer shall initially introduce all evidence in its case in chief. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter.

Sec. 2. RCW 51.32.240 and 2004 c 243 s 7 are each amended to read as follows:

(1)(a) Whenever any payment of benefits under this title is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by willful misrepresentation, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The department or self-insurer, as the case may be, must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed any claim therefor has been waived.

(b) Except as provided in subsections (3), (4), and (5) of this section, the department may only assess an overpayment of benefits because of adjudicator error when the order upon which the overpayment is based is not yet final as provided in RCW 51.52.050 and 51.52.060. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(c) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his or her discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(2) Whenever the department or self-insurer fails to pay benefits because of clerical error, mistake of identity, or innocent misrepresentation, all not induced by recipient willful misrepresentation, the recipient may request an adjustment of benefits to be paid from the state fund or by the self-insurer, as the case may be, subject to the following:

(a) The recipient must request an adjustment in benefits within one year from the date of the incorrect payment or it will be deemed any claim therefore has been waived.

(b) The recipient may not seek an adjustment of benefits because of adjudicator error. Adjustments due to adjudicator error are addressed by the filing of a written request for reconsideration with the department of labor and industries or an appeal with the board of industrial insurance appeals within sixty days from the date the order is communicated as provided in RCW 51.52.050. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(3) Whenever the department issues an order rejecting a claim for benefits paid pursuant to RCW 51.32.190 or 51.32.210, after payment for temporary disability benefits has been paid by a self-insurer pursuant to RCW 51.32.190(3) or by the department pursuant to RCW 51.32.210, the recipient thereof shall repay such benefits and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The director, under rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(4) Whenever any payment of benefits under this title has been made pursuant to an adjudication by the department or by order of the board or any court and timely appeal therefrom has been made where the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim ((~~with the state fund or self-insurer, as the case may be~~)) whether state fund or self-insured.

(a) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise ((~~his~~)) discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience. However, if the director waives in whole or in part any such payments due a self-insurer, the self-insurer shall be reimbursed the amount waived from the self-insured employer overpayment reimbursement fund.

(b) The department shall collect information regarding self-insured claim overpayments resulting from final decisions of the board and the courts, and recoup such overpayments on behalf of the self-insurer from any open, new, or reopened state fund or self-insured claims. The department shall forward the amounts collected to the self-insurer to whom the payment is owed. The department may provide information as needed to any self-insurers from whom payments may be collected on behalf of the department or another self-insurer. Notwithstanding RCW 51.32.040, any self-insurer requested by the department to forward payments to the department pursuant to this subsection shall pay the department directly. The department shall credit the amounts recovered to the appropriate fund, or forward amounts collected to the appropriate self-insurer, as the case may be.

(c) If a self-insurer is not fully reimbursed within twenty-four months of the first attempt at recovery through the collection process pursuant to this subsection and by means of processes pursuant to subsection (6) of this section, the self-insurer shall be reimbursed for the remainder of the amount due from the self-insured employer overpayment reimbursement fund.

(d) For purposes of this subsection, "recipient" does not include health service providers whose treatment or services were authorized by the department or self-insurer.

(e) The department or self-insurer shall first attempt recovery of overpayments for health services from any entity that provided health insurance to the worker to the extent that the health insurance entity would have provided health insurance benefits but for workers' compensation coverage.

(5)(a) Whenever any payment of benefits under this title has been induced by willful misrepresentation the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient on any claim with the state fund or self-insurer against whom the willful misrepresentation was committed, as the case may be, and the amount of such penalty shall be placed in the supplemental pension fund. Such repayment or recoupment must be demanded or ordered within three years of the discovery of the willful misrepresentation.

(b) For purposes of this subsection (5), it is willful misrepresentation for a person to obtain payments or other benefits under this title in an amount greater than that to which the person otherwise would be entitled. Willful misrepresentation includes:

(i) Willful false statement; or

(ii) Willful misrepresentation, omission, or concealment of any material fact.

(c) For purposes of this subsection (5), "willful" means a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact with the specific intent of obtaining, continuing, or increasing benefits under this title.

(d) For purposes of this subsection (5), failure to disclose a work-type activity must be willful in order for a misrepresentation to have occurred.

(e) For purposes of this subsection (5), a material fact is one which would result in additional, increased, or continued benefits, including but not limited to facts about physical

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restrictions, or work-type activities which either result in wages or income or would be reasonably expected to do so. Wages or income include the receipt of any goods or services. For a work-type activity to be reasonably expected to result in wages or income, a pattern of repeated activity must exist. For those activities that would reasonably be expected to result in wages or produce income, but for which actual wage or income information cannot be reasonably determined, the department shall impute wages pursuant to RCW 51.08.178(4).

(6) The worker, beneficiary, or other person affected thereby shall have the right to contest an order assessing an overpayment pursuant to this section in the same manner and to the same extent as provided under RCW 51.52.050 and 51.52.060. In the event such an order becomes final under chapter 51.52 RCW and notwithstanding the provisions of subsections (1) through (5) of this section, the director, director's designee, or self-insurer may file with the clerk in any county within the state a warrant in the amount of the sum representing the unpaid overpayment and/or penalty plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the worker, beneficiary, or other person mentioned in the warrant, the amount of the unpaid overpayment and/or penalty plus interest accrued, and the date the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the worker, beneficiary, or other person against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department or self-insurer in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the worker, beneficiary, or other person within three days of filing with the clerk.

The director, director's designee, or self-insurer may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice to withhold and deliver property of any kind if there is reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property that is due, owing, or belonging to any worker, beneficiary, or other person upon whom a warrant has been served for payments due the department or self-insurer. The notice and order to withhold and deliver shall be served by certified mail accompanied by an affidavit of service by mailing or served by the sheriff of the county, or by the sheriff's deputy, or by any authorized representative of the director, director's designee, or self-insurer. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired or in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property that may be subject to the claim of the department or self-insurer, such property shall be delivered forthwith to the director, the director's authorized representative, or self-insurer upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount, plus costs, claimed by the director, director's designee, or self-insurer in the notice. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

This subsection shall only apply to orders assessing an overpayment which are issued on or after July 28, 1991: PROVIDED, That this subsection shall apply retroactively to all orders assessing an overpayment resulting from fraud, civil or criminal.

(7) Orders assessing an overpayment which are issued on or after July 28, 1991, shall include a conspicuous notice of the collection methods available to the department or self-insurer.

NEW SECTION. **Sec. 3.** A new section is added to chapter 51.32 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, each self-insured employer shall retain from the earnings of each of its workers that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. These moneys shall only be retained from employees and remitted to the department in such manner and at such intervals as the department directs and shall be placed in the self-insured employer overpayment reimbursement fund. The moneys so collected shall be used exclusively for reimbursement to the reserve fund and to self-insured employers for benefits overpaid during the pendency of board or court appeals in which the self-insured employer prevails and has not recovered, and shall be no more than necessary to make such payments on a current basis.

(2) None of the amount assessed for the employer overpayment reimbursement fund under this section may be retained from the earnings of workers covered under RCW 51.16.210.

NEW SECTION. **Sec. 4.** A new section is added to chapter 51.44 RCW to read as follows:

The self-insured employer overpayment reimbursement fund is created in the custody of the state treasurer. Expenditures from the account may be used only for reimbursing the reserve fund and self-insured employers for benefits overpaid during the pendency of board or court appeals in which the self-insured employer prevails and has not recovered. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 5.** A new section is added to chapter 51.52 RCW to read as follows:

(1) The department shall study appeals of workers' compensation cases and collect information on the impacts of this act on state fund and self-insured workers and employers. The study shall consider the types of benefits that may be paid pending an appeal, and shall include, but not be limited to:

(a) The frequency and outcomes of appeals;

(b) The duration of appeals and any procedural or process changes made by the board to implement this act and expedite the process;

(c) The number of and amount of overpayments resulting from decisions of the board or court; and

(d) The processes used and efforts made to recoup overpayments and the results of those efforts.

(2) State fund and self-insured employers shall provide the information requested by the department to conduct the study.

(3) The department shall report to the workers' compensation advisory committee by July 1, 2009, on the preliminary results of the study. By December 1, 2009, and annually thereafter, with the final report due by December 1, 2011, the department shall report to the workers' compensation advisory committee and the appropriate committees of the

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legislature on the results of the study. The workers' compensation advisory committee shall provide its recommendations for addressing overpayments resulting from this act, including the need for and ability to fund a permanent method to reimburse employer and state fund overpayment costs.

NEW SECTION. **Sec. 6.** Section 2 of this act takes effect January 1, 2009.

NEW SECTION. **Sec. 7.** This act applies to orders issued on or after the effective date of this section."

On page 9, line 18 of the title amendment, after "insert" strike the remainder of the title amendment and insert "amending RCW 51.52.050 and 51.32.240; adding a new section to chapter 51.32 RCW; adding a new section to chapter 51.44 RCW; adding a new section to chapter 51.52 RCW; creating a new section; and providing an effective date."

And the bill do pass as recommended by the conference committee.

Signed by Senators Kohl-Welles and Murray; Representatives Conway, Green and Condotta.

MOTION

Senator Kohl-Welles moved that the Report of the Conference Committee on Engrossed Second Substitute House Bill No. 3139 be adopted.

Senators Kohl-Welles, Murray and Keiser spoke in favor of passage of the motion.

Senator Holmquist spoke against the motion.

MOTION

On motion of Senator Delvin, Senator McCaslin was excused.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Report of the Conference Committee on Engrossed Second Substitute House Bill No. 3139 be adopted.

The motion by Senator Kohl-Welles carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 3139, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 3139, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 14; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Swecker, Tom and Weinstein - 35

Voting nay: Senators Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Schoesler, Stevens and Zarelli - 14

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3139, as recommended by the Conference Committee, 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

March 12, 2008

MR. PRESIDENT:
The House has passed the following bills:
SUBSTITUTE SENATE BILL NO. 6806,
SECOND ENGROSSED SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8407,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 12, 2008

MR. PRESIDENT:
The House concurred in Senate amendment to the following bills and passed the bills as amended by the Senate:
SECOND SUBSTITUTE HOUSE BILL NO. 2507,
SECOND SUBSTITUTE HOUSE BILL NO. 2598,
SECOND SUBSTITUTE HOUSE BILL NO. 2714,
HOUSE BILL NO. 2791,
SECOND SUBSTITUTE HOUSE BILL NO. 2822,
SUBSTITUTE HOUSE BILL NO. 2858,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 12, 2008

MR. PRESIDENT:
The House concurred in Senate amendment to the following bills and passed the bills as amended by the Senate:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 3329,
ENGROSSED HOUSE BILL NO. 3360,
HOUSE BILL NO. 3362,
SUBSTITUTE HOUSE BILL NO. 3374,
ENGROSSED SUBSTITUTE HOUSE CONCURRENT RESOLUTION NO. 4408,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:
SUBSTITUTE SENATE BILL NO. 5378,
SENATE BILL NO. 6375,
SENATE BILL NO. 6534,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6573,
SENATE BILL NO. 6628,
ENGROSSED SENATE BILL NO. 6629,
SUBSTITUTE SENATE BILL NO. 6828,
SENATE BILL NO. 6950,

MESSAGE FROM THE HOUSE

March 12, 2008

MR. PRESIDENT:

The House receded from its amendment to SECOND SUBSTITUTE SENATE BILL NO. 5596, Under suspension of rules SECOND SUBSTITUTE SENATE BILL NO. 5596 was returned to second reading for the purpose of an amendment.

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The House adopted the following amendment: 5596-S2 AMH CODY H6064.1, and passed the bill as amended by the house.

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) A health carrier may not pay a chiropractor less for a service or procedure identified under a particular physical medicine and rehabilitation code or evaluation and management code, as listed in a nationally recognized services and procedures code book such as the American medical association current procedural terminology code book, than it pays any other type of provider licensed under Title 18 RCW for a service or procedure under the same code, except as provided in (b) of this subsection. A carrier may not circumvent this requirement by creating a chiropractor-specific code not listed in the nationally recognized code book otherwise used by the carrier for provider payment.

(b) This section does not affect a health carrier's:

(i) Implementation of a health care quality improvement program to promote cost-effective and clinically efficacious health care services, including but not limited to pay-for-performance payment methodologies and other programs fairly applied to all health care providers licensed under Title 18 RCW that are designed to promote evidence-based and research-based practices;

(ii) Health care provider contracting to comply with the network adequacy standards;

(iii) Authority to pay in-network providers differently than out-of-network providers; and

(iv) Authority to pay a chiropractor less than another provider for procedures or services under the same code based upon geographic differences in the cost of maintaining a practice.

(c) This section does not, and may not be construed to:

(i) Require the payment of provider billings that do not meet the definition of a clean claim as set forth in rules adopted by the commissioner;

(ii) Require any health plan to include coverage of any condition; or

(iii) Expand the scope of practice for any health care provider.

(2) This section applies only to payments made on or after January 1, 2009.

Sec. 2. RCW 41.05.017 and 2007 c 502 s 2 are each amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 43.70.235, 48.43.545, 48.43.550, 70.02.110, 70.02.900, section 1 of this act, and 48.43.083.

NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43 RCW to read as follows:

(1) On or after January 1, 2010, the commissioner shall contract for an evaluation of the impact of section 1 of this act on the utilization and cost of health care services associated with physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes, and on the total cost of episodes of care for treatment associated with the use of these payment or billing codes.

(2) The commissioner shall require carriers to provide to the contractor such data as the contractor determines is necessary to complete the evaluation under subsection (1) of this section. Data may include, but need not be limited to, the following:

(a) Data on the utilization of physical medicine and rehabilitation services and evaluation and management services associated with payment or billing codes for those services;

(b) Data related to changes in the distribution or mix of health care providers providing services under physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes;

(c) Data related to trends in carrier expenditures for services associated with physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes; and

(d) Data related to trends in carrier expenditures for the total cost of health plan enrollee care for treatment of the presenting health problems associated with the use of physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes.

(3) Data, information, and documents provided by the carrier pursuant to this section are exempt from public inspection and copying under chapter 42.56 RCW.

(4) The commissioner shall submit the evaluation required in subsection (1) of this section to the appropriate committees of the senate and house of representatives by January 1, 2012.

NEW SECTION. **Sec. 4.** This act expires June 30, 2013."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Franklin moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5596.

Senators Franklin, Keiser and Pflug spoke in favor of passage of the motion.

Senators Parlette and Rasmussen spoke against passage of the motion.

The President declared the question before the Senate to be the motion by Senator Franklin that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5596.

The motion by Senator Franklin carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5596 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5596, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5596, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Pflug, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Voting nay: Senators Honeyford, Parlette and Rasmussen - 3

SECOND SUBSTITUTE SENATE BILL NO. 5596, 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.

STATEMENT FOR THE JOURNAL

I wish the Journal to reflect that I inadvertently voted "Yes" on the final passage of Second Substitute Senate Bill No. 5596,

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relating chiropractic services. I voted "No" on this measure earlier during the session and continue to oppose it's passage.

SENATOR RODNEY TOM, 48th Legislative District

MESSAGE FROM THE HOUSE

March 12, 2008

MR. PRESIDENT:

The House receded from its amendment, under suspension of rules ENGROSSED SUBSTITUTE SENATE BILL NO. 5831 was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 5831-S.E AMH CONW REIN 067, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1**. (1)(a) Whereas it is necessary for the public health and safety to create statewide contractor registration and mechanic certification requirements, a joint legislative task force on the heating, ventilating, air conditioning, and refrigeration industry is established, with members as provided in this subsection.

(i) The chair and the ranking member of the senate labor, commerce, research and development committee.

(ii) The chair and the ranking member of the house commerce and labor committee.

(iii) The majority leader of the senate shall appoint one member from each of the two largest caucuses of the senate.

(iv) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(v) Four members representing business, selected from nominations submitted by business organizations representing heating, ventilating, air conditioning, and refrigeration contractors and appointed jointly by the majority leader of the senate and the speaker of the house of representatives. At least one business representative shall be from a county that has a contiguous border with another state;

(vi) Four members representing labor, selected from nominations submitted by statewide labor organizations representing heating, ventilating, air conditioning, and refrigeration trades and appointed jointly by the majority leader of the senate and the speaker of the house of representatives. At least one labor representative shall be from a county that has a contiguous border with another state; and

(vii) One member representing the department of labor and industries.

(b) The cochairs of the task force shall be the chair of the senate labor, commerce, research and development committee, and the chair of the house commerce and labor committee.

(2) The joint legislative task force shall review the following issues in the context of the framework set forth in Senate Bill No. 5831 and Joint Legislative Audit and Review Committee Report No. 05-12 on HVAC/R licensing and testing requirements:

(a) Requirements for certifying heating, ventilating, air conditioning, and refrigeration mechanics;

(b) Methods of registering heating, ventilating, air conditioning, and refrigeration contractors who qualify for two or more registrations or licenses;

(c) Establishing at least three levels of heating, ventilating, air conditioning, and refrigeration mechanics, with the ability to be certified in several specialities including: (i) Heating, ventilating, and air conditioning; (ii) refrigeration; and (iii) gas piping;

(d) The experience requirements for each mechanic level;

(e) The methods by which apprentices and other persons learning to perform heating, ventilating, air conditioning, and refrigeration work obtain training certificates;

(f) Exemptions to the registration or certification requirements; and

(g) Such other factors the joint legislative task force deems necessary.

(3) Legislative members of the joint legislative task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(4) The expenses of the joint legislative task force shall be paid jointly by the senate and the house of representatives.

(5) The joint legislative task force shall report its findings and recommendations to the legislature by December 1, 2008.

(6) This section expires January 1, 2009."

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 Substitute Senate Bill No. 5831.

Senators Kohl-Welles and Franklin spoke in favor of passage of the motion.

Senators King and Holmquist spoke on the motion.

Senator 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 Substitute Senate Bill No. 5831.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5831 by a rising vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5831, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5831, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 9; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 40

Voting nay: Senators Brandland, Delvin, Hewitt, Holmquist, Honeyford, Morton, Parlette, Schoesler and Sheldon - 9

ENGROSSED SUBSTITUTE SENATE BILL NO. 5831, 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

March 12, 2008

draft

MR. PRESIDENT:

The House receded from its amendment, under suspension of rules SENATE BILL NO. 6332 was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6332 AMH ORMS DUPU 054, and passed the bill as amended by the House.

On page 1, line 7, after "((~~four~~))" strike "six and one-half" and insert "five ((~~and one half~~))"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Senate Bill No. 6332.

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 Senate Bill No. 6332.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6332 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6332, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6332, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Voting nay: Senators Carrell and Schoesler - 2

SENATE BILL NO. 6332, 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

March 12, 2008

MR. PRESIDENT:

The House receded from its amendment, under suspension of rules ENGROSSED SUBSTITUTE SENATE BILL NO. 6665 was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6665-S.E AMH DICK H6053.3, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.96A.800 and 2005 c 504 s 220 are each amended to read as follows:

(1) Subject to funds appropriated for this specific purpose, the secretary shall select and contract with counties to provide intensive case management for chemically dependent persons with histories of high utilization of crisis services at two sites. In selecting the two sites, the secretary shall endeavor to site one in an urban county, and one in a rural county; and to site them in counties other than those selected pursuant to RCW 70.96B.020, to the extent necessary to facilitate evaluation of pilot project results. Subject to funds appropriated for this specific purpose, the secretary may contract with additional counties to provide intensive case management.

(2) The contracted sites shall implement the pilot programs by providing intensive case management to persons with a primary chemical dependency diagnosis or dual primary chemical dependency and mental health diagnoses, through the employment of chemical dependency case managers. The chemical dependency case managers shall:

(a) Be trained in and use the integrated, comprehensive screening and assessment process adopted under RCW 70.96C.010;

(b) Reduce the use of crisis medical, chemical dependency and mental health services, including but not limited to, emergency room admissions, hospitalizations, detoxification programs, inpatient psychiatric admissions, involuntary treatment petitions, emergency medical services, and ambulance services;

(c) Reduce the use of emergency first responder services including police, fire, emergency medical, and ambulance services;

(d) Reduce the number of criminal justice interventions including arrests, violations of conditions of supervision, bookings, jail days, prison sanction day for violations, court appearances, and prosecutor and defense costs;

(e) Where appropriate and available, work with therapeutic courts including drug courts and mental health courts to maximize the outcomes for the individual and reduce the likelihood of reoffense;

(f) Coordinate with local offices of the economic services administration to assist the person in accessing and remaining enrolled in those programs to which the person may be entitled;

(g) Where appropriate and available, coordinate with primary care and other programs operated through the federal government including federally qualified health centers, Indian health programs, and veterans' health programs for which the person is eligible to reduce duplication of services and conflicts in case approach;

(h) Where appropriate, advocate for the client's needs to assist the person in achieving and maintaining stability and progress toward recovery;

(i) Document the numbers of persons with co-occurring mental and substance abuse disorders and the point of determination of the co-occurring disorder by quadrant of intensity of need; and

(j) Where a program participant is under supervision by the department of corrections, collaborate with the department of corrections to maximize treatment outcomes and reduce the likelihood of reoffense.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.

((~~(4) This section expires June 30, 2008.~~))

Sec. 2. RCW 70.96B.800 and 2005 c 504 s 217 are each amended to read as follows:

(1) The Washington state institute for public policy shall evaluate the pilot programs and make ((~~a~~)) preliminary reports to appropriate committees of the legislature by December 1, 2007, and June 30, 2008, and a final report by ((~~September 30, 2008~~)) June 30, 2010.

(2) The evaluation of the pilot programs shall include:

(a) Whether the designated crisis responder pilot program:

(i) Has increased efficiency of evaluation and treatment of persons involuntarily detained for seventy-two hours;

(ii) Is cost-effective;

(iii) Results in better outcomes for persons involuntarily detained;

(iv) Increased the effectiveness of the crisis response system in the pilot catchment areas;

(b) The effectiveness of providing a single chapter in the Revised Code of Washington to address initial detention of persons with mental disorders or chemical dependency, in crisis response situations and the likelihood of effectiveness of providing a single, comprehensive involuntary treatment act.

(3) The reports shall consider the impact of the pilot programs on the existing mental health system and on the persons served by the system.

Sec. 3. RCW 70.96B.010 and 2005 c 504 s 202 are each amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician that a person should be examined or treated as a patient in a hospital, an evaluation and treatment facility, or other inpatient facility, or a decision by a professional person in charge or his or her designee that a person should be detained as a patient for evaluation and treatment in a secure detoxification facility or other certified chemical dependency provider.

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes but is not limited to atypical antipsychotic medications.

(3) "Approved treatment program" means a discrete program of chemical dependency treatment provided by a treatment program certified by the department as meeting standards adopted under chapter 70.96A RCW.

(4) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient.

(5) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

(6) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

(7) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting.

(8) "Conditional release" means a revocable modification of a commitment that may be revoked upon violation of any of its terms.

(9) "Custody" means involuntary detention under either chapter 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.

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

(11) "Designated chemical dependency specialist" or "specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in RCW 70.96A.140 and this chapter, and qualified to do so by meeting standards adopted by the department.

(12) "Designated crisis responder" means a person designated by the county or regional support network to perform the duties specified in this chapter.

(13) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter.

(14) "Detention" or "detain" means the lawful confinement of a person under this chapter, or chapter 70.96A or 71.05 RCW.

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with individuals with developmental disabilities and is a psychiatrist, psychologist, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(16) "Developmental disability" means that condition defined in RCW 71A.10.020.

(17) "Discharge" means the termination of facility authority. The commitment may remain in place, be terminated, or be amended by court order.

(18) "Evaluation and treatment facility" means any facility that can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and that is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility that is part of, or operated by, the department or any federal agency does not require certification. No correctional institution or facility, or jail, may be an evaluation and treatment facility within the meaning of this chapter.

(19) "Facility" means either an evaluation and treatment facility or a secure detoxification facility.

(20) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(21) "History of one or more violent acts" refers to the period of time ten years before the filing of a petition under this chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent, but not any violent acts committed, in a mental health facility or a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.

(22) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

(23) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

((~~(23)~~)) (24) "Judicial commitment" means a commitment by a court under this chapter.

((~~(24)~~)) (25) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

((~~(25)~~)) (26) "Likelihood of serious harm" means:

(a) A substantial risk that:

(i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

(ii) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or

(iii) Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts.

((~~(26)~~)) (27) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive or volitional functions.

((~~(27)~~)) (28) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by

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rules adopted by the secretary under the authority of chapter 71.05 RCW.

((~~(28)~~)) (29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

((~~(29)~~)) (30) "Person in charge" means a physician or chemical dependency counselor as defined in rule by the department, who is empowered by a certified treatment program with authority to make assessment, admission, continuing care, and discharge decisions on behalf of the certified program.

((~~(30)~~)) (31) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved treatment program, that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent.

((~~(31)~~)) (32) "Professional person" means a mental health professional or chemical dependency professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter.

((~~(32)~~)) (33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology.

((~~(33)~~)) (34) "Psychologist" means a person who has been licensed as a psychologist under chapter 18.83 RCW.

((~~(34)~~)) (35) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved treatment program that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

((~~(35)~~)) (36) "Registration records" means all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.

((~~(36)~~)) (37) "Release" means legal termination of the commitment under chapter 70.96A or 71.05 RCW or this chapter.

((~~(37)~~)) (38) "Secretary" means the secretary of the department or the secretary's designee.

((~~(38)~~)) (39) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that serves the purpose of providing evaluation and assessment, and acute and/or subacute detoxification services for intoxicated persons and includes security measures sufficient to protect the patients, staff, and community.

((~~(39)~~)) (40) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

((~~(40)~~)) (41) "Treatment records" means registration records and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

((~~(41)~~)) (42) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

Sec. 4. RCW 70.96B.020 and 2005 c 504 s 203 are each amended to read as follows:

(1) Subject to funds appropriated for this specific purpose, the secretary, after consulting with the Washington state association of counties, shall select and contract with regional support networks or counties to provide two integrated crisis response and involuntary treatment pilot programs for adults and shall allocate resources for both integrated services and secure detoxification services in the pilot areas. In selecting the two regional support networks or counties, the secretary shall endeavor to site one in an urban and one in a rural regional support network or county; and to site them in counties other than those selected pursuant to RCW 70.96A.800, to the extent necessary to facilitate evaluation of pilot project results. Subject to funds appropriated for this specific purpose, the secretary may contract with additional regional support networks or counties to provide integrated crisis response and involuntary treatment pilot programs to adults.

(2) The regional support networks or counties shall implement the pilot programs by providing integrated crisis response and involuntary treatment to persons with a chemical dependency, a mental disorder, or both, consistent with this chapter. The pilot programs shall:

(a) Combine the crisis responder functions of a designated mental health professional under chapter 71.05 RCW and a designated chemical dependency specialist under chapter 70.96A RCW by establishing a new designated crisis responder who is authorized to conduct investigations and detain persons up to seventy-two hours to the proper facility;

(b) Provide training to the crisis responders as required by the department;

(c) Provide sufficient staff and resources to ensure availability of an adequate number of crisis responders twenty-four hours a day, seven days a week;

(d) Provide the administrative and court-related staff, resources, and processes necessary to facilitate the legal requirements of the initial detention and the commitment hearings for persons with a chemical dependency;

(e) Participate in the evaluation and report to assess the outcomes of the pilot programs including providing data and information as requested;

(f) Provide the other services necessary to the implementation of the pilot programs, consistent with this chapter as determined by the secretary in contract; and

(g) Collaborate with the department of corrections where persons detained or committed are also subject to supervision by the department of corrections.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.

Sec. 5. RCW 70.96B.050 and 2007 c 120 s 1 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, chemical dependency disorder, or both, presents a likelihood of serious harm or is gravely disabled, the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at either an evaluation and treatment facility, a detoxification facility, or other certified chemical dependency provider.

(2)(a) An order to detain to an evaluation and treatment facility, a detoxification facility, or other certified chemical

dependency provider for not more than a seventy-two hour evaluation and treatment period may be issued by a judge upon request of a designated crisis responder: (i) Whenever it appears to the satisfaction of a judge of the superior court, district court, or other court permitted by court rule, that there is probable cause to support the petition, and (ii) that the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury or sworn telephonic testimony, may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order to appear, together with a notice of rights and a petition for initial detention. After service on the person, the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility or secure detoxification facility and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider. If requested by the detained person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may be continued subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours. The person may be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other person accompanying the person may be present during the admission evaluation. The facility may exclude the person if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take the person or cause the person to be taken into custody and placed in an evaluation and treatment facility, a secure detoxification facility, or other certified chemical dependency provider. At the time the person is taken into custody there shall commence to be served on the person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of detention, a notice of rights, and a petition for initial detention.

Sec. 6. RCW 70.96B.100 and 2005 c 504 s 211 are each amended to read as follows:

((~~If a person is detained for additional treatment beyond fourteen days under RCW 70.96B.090, the professional staff of the agency or facility may petition for additional treatment under RCW 70.96A.140.~~)) (1) A person detained for fourteen days of involuntary chemical dependency treatment under RCW 70.96B.090 or subsection (6) of this section shall be released from involuntary treatment at the expiration of the period of commitment unless the professional staff of the agency or facility files a petition for an additional period of involuntary treatment under RCW 70.96A.140, or files a petition for sixty days less restrictive treatment under this section naming the detained person as a respondent. Costs associated with the obtainment or revocation of an order for less restrictive treatment and subsequent involuntary commitment shall be provided for within current funding.

(2) A petition for less restrictive treatment must be filed at least three days before expiration of the fourteen-day period of intensive treatment, and comport with the rules contained in RCW 70.96B.090(2). The petition shall state facts that support the finding that the respondent, as a result of a chemical dependency, presents a likelihood of serious harm or is gravely disabled, and that continued treatment pursuant to a less restrictive order is in the best interest of the respondent or others. At the time of filing such a petition, the clerk shall set a time for the respondent to come before the court on the next judicial day after the day of filing unless such appearance is waived by the respondent's attorney.

(3) At the time set for appearance the respondent must be brought before the court, unless such appearance has been waived and the court shall advise the respondent of his or her right to be represented by an attorney. If the respondent is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent the respondent. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the respondent to examine and testify on behalf of the respondent.

(4) The court shall conduct a hearing on the petition for sixty days less restrictive treatment on or before the last day of the confinement period. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The respondent shall be present at such proceeding. The rules of evidence shall apply, and the respondent shall have the right to present evidence on his or her behalf, to cross-examine witnesses who testify against him or her, to remain silent, and to view and copy all petitions and reports in the court file. The physician-patient privilege or the psychologist-client privilege shall be deemed waived in accordance with the provisions under RCW 71.05.360(9). Involuntary treatment shall continue while a petition for less restrictive treatment is pending under this section.

(5) The court may impose a sixty-day less restrictive order if the evidence shows that the respondent, as a result of a chemical dependency, presents a likelihood of serious harm or is gravely disabled, and that continued treatment pursuant to a less restrictive order is in the best interest of the respondent or others. The less restrictive order may impose treatment conditions and other conditions which are in the best interest of the respondent and others. A copy of the less restrictive order shall be given to the respondent, the designated crisis responder, and any program designated to provide less restrictive treatment. A program designated to provide less restrictive treatment and willing to supervise the conditions of the less restrictive order may modify the conditions for continued release when the modification is in the best interests of the respondent, but must notify the designated crisis responder and the court of such modification.

(6) If a program approved by the court and willing to supervise the conditions of the less restrictive order or the designated crisis responder determines that the respondent is failing to adhere to the terms of the less restrictive order or that substantial deterioration in the respondent's functioning has occurred, then the designated crisis responder shall notify the court of original commitment and request a hearing to be held no less than two and no more than seven days after the date of the request to determine whether or not the respondent should be returned to more restrictive care. The designated crisis responder may cause the respondent to be immediately taken into custody of the secure detoxification facility pending the hearing if the alleged noncompliance causes the respondent to present a likelihood of serious harm. The designated crisis responder shall file a petition with the court stating the facts substantiating the need for the hearing along with the treatment recommendations. The respondent shall have the same rights with respect to notice, hearing, and counsel as for the original involuntary treatment proceedings. The issues to be determined at the hearing are whether the conditionally released respondent did or did not adhere to the terms and conditions of his or her

release to less restrictive care or that substantial deterioration of the respondent's functioning has occurred and whether the conditions of release should be modified or the respondent should be returned to a more restrictive setting. The hearing may be waived by the respondent and his or her counsel and his or her guardian or conservator, if any, but may not be waived unless all such persons agree to the waiver. If the court finds in favor of the petitioner, or the respondent waives a hearing, the court may order the respondent to be committed to a secure detoxification facility for fourteen days of involuntary chemical dependency treatment, or may order the respondent to be returned to less restrictive treatment on the same or modified conditions.

NEW SECTION. **Sec. 7.** RCW 70.96B.900 (Expiration date--2005 c 504 §§ 202-216) and 2005 c 504 s 219 are each repealed.

Sec. 8. 2007 c 120 s 4 (uncodified) is repealed.

NEW SECTION. **Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

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. 6665.

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. 6665.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6665 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6665, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6665, 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 Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SUBSTITUTE SENATE BILL NO. 6665, 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

March 12, 2008

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6851, with the following amendment: 6851-S AMH FIN H5848.1

On page 2, line 12, after "surviving spouse" insert "or surviving domestic partner"

On page 2, line 14, after "surviving spouse" insert "or surviving domestic partner"

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6851.

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 Substitute Senate Bill No. 6851.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6851 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6851, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6851, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Voting nay: Senators Hargrove and Morton - 2

SUBSTITUTE SENATE BILL NO. 6851, 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

March 12, 2008

MR. PRESIDENT:

The House receded from its amendment, under suspension of rules SECOND SUBSTITUTE SENATE BILL NO. 6855 was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6855-S2 AMH ORMS H6068.2, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.160.010 and 1999 c 164 s 101 and 1999 c 94 s 5 are each reenacted and amended to read as follows:

(1) The legislature finds that it is the public policy of the state of Washington to direct financial resources toward the fostering of economic development through the stimulation of

investment and job opportunities and the retention of sustainable existing employment for the general welfare of the inhabitants of the state. Reducing unemployment and reducing the time citizens remain jobless is important for the economic welfare of the state. A valuable means of fostering economic development is the construction of public facilities which contribute to the stability and growth of the state's economic base. ((~~Strengthening the economic base through issuance of industrial development bonds, whether single or umbrella, further serves to reduce unemployment. Consolidating issues of industrial development bonds when feasible to reduce costs additionally advances the state's purpose to improve economic vitality.~~)) Expenditures made for these purposes as authorized in this chapter are declared to be in the public interest, and constitute a proper use of public funds. A community economic revitalization board is needed which shall aid the development of economic opportunities. The general objectives of the board should include:

(a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;

(b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment;

(c) Encouraging wider access to financial resources for both large and small industrial development projects;

(d) Encouraging new economic development or expansions to maximize employment;

(e) Encouraging the retention of viable existing firms and employment; and

(f) Providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment.

(2) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways, county roads, or city streets for industries considering locating or expanding in this state.

((~~(a)~~)) (3) The legislature finds it desirable to provide a process whereby the need for diverse public works improvements necessitated by planned economic development can be addressed in a timely fashion and with coordination among all responsible governmental entities.

((~~(b) All transportation improvements on state highways must first be approved by the state transportation commission and the community economic revitalization board in accordance with the procedures established by RCW 43.160.074 and 47.01.280.~~

~~(3)~~)) (4) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to assist development of telecommunications infrastructure that supports business development, retention, and expansion in ((~~rural natural resources impact areas and rural counties of~~)) the state.

((~~(4)~~)) (5) The legislature also finds that the state's economic development efforts can be enhanced by providing funds to improve markets for those recyclable materials representing a large fraction of the waste stream. The legislature finds that public facilities which result in private construction of processing or remanufacturing facilities for recyclable materials are eligible for consideration from the board.

((~~(5)~~)) (6) The legislature finds that sharing economic growth statewide is important to the welfare of the state. ((~~Rural counties and rural natural resources impact areas do not share in the economic vitality of the Puget Sound region.~~)) The ability of ((~~these~~)) communities to pursue business and job retention, expansion, and development opportunities depends on their capacity to ready necessary economic development project plans, sites, permits, and infrastructure for private investments. Project-specific planning, predevelopment, and infrastructure are critical ingredients for economic development. ((~~Rural counties and rural natural resources impact areas generally lack these necessary tools and resources to diversify and revitalize their economies.~~)) It is, therefore, the intent of the legislature to increase the amount of funding available through the community economic revitalization board ((~~for rural counties and rural natural resources impact areas,~~)) and to authorize flexibility for available resources in these areas to help fund planning, predevelopment, and construction costs of infrastructure and facilities and sites that foster economic vitality and diversification.

Sec. 2. RCW 43.160.020 and 2004 c 252 s 1 are each amended to read as follows:

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

(1) "Board" means the community economic revitalization board.

(2) ((~~"Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the board pursuant to this chapter.~~

~~(3)~~)) "Department" means the department of community, trade, and economic development.

((~~(4) "Financial institution" means any bank, savings and loan association, credit union, development credit corporation, insurance company, investment company, trust company, savings institution, or other financial institution approved by the board and maintaining an office in the state.~~

~~(5) "Industrial development facilities" means "industrial development facilities" as defined in RCW 39.84.020.~~

~~(6) "Industrial development revenue bonds" means tax-exempt revenue bonds used to fund industrial development facilities.~~

~~(7)~~)) (3) "Local government" or "political subdivision" means any port district, county, city, town, special purpose district, and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities under this chapter.

((~~(8) "Sponsor" means any of the following entities which customarily provide service or otherwise aid in industrial or other financing and are approved as a sponsor by the board: A bank, trust company, savings bank, investment bank, national banking association, savings and loan association, building and loan association, credit union, insurance company, or any other financial institution, governmental agency, or holding company of any entity specified in this subsection.~~

~~(9) "Umbrella bonds" means industrial development revenue bonds from which the proceeds are loaned, transferred, or otherwise made available to two or more users under this chapter.~~

~~(10) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and receiving or applying to receive revenues from bonds issued under this chapter.~~

~~(11)~~)) (4) "Public facilities" means a project of a local government or a federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of bridges, roads, domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, telecommunications, transportation, natural gas, buildings or structures, and port facilities, all for the purpose of job creation, job retention, or job expansion.

((~~(12)~~)) (5) "Rural county" means a county with a population density of fewer than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles, as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.

((~~(13) "Rural natural resources impact area" means:~~

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~~(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets three of the five criteria set forth in subsection (14) of this section;~~

~~(b) A nonmetropolitan county with a population of less than forty thousand in the 1990 decennial census, that meets two of the five criteria as set forth in subsection (14) of this section; or~~

~~(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets three of the five criteria set forth in subsection (14) of this section.~~

~~(14) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:~~

~~(a) A lumber and wood products employment location quotient at or above the state average;~~

~~(b) A commercial salmon fishing employment location quotient at or above the state average;~~

~~(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;~~

~~(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and~~

~~(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area of which any part is ten miles or more from an urbanized area is considered nonurbanized. A zip code totally surrounded by zip codes qualifying as nonurbanized under this definition is also considered nonurbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.~~))

Sec. 3. RCW 43.160.030 and 2004 c 252 s 2 are each amended to read as follows:

(1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of one member from each of the two major caucuses of the house of representatives to be appointed by the speaker of the house and one member from each of the two major caucuses of the senate to be appointed by the president of the senate. The board shall also consist of the following members appointed by the governor: A recognized private or public sector economist; one port district official; one county official; one city official; one representative of a federally recognized Indian tribe; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the governor. The members of the board shall elect one of their members to serve as vice-chair. The director of community, trade, and economic development, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Management services, including fiscal and contract services, shall be provided by the department to assist the board in implementing this chapter ((~~and the allocation of private activity bonds~~)).

(4) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.

(6) A member appointed by the governor may not be absent from more than fifty percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation is deemed to have withdrawn from the office and may be replaced by the governor.

(7) A majority of members currently appointed constitutes a quorum.

Sec. 4. RCW 43.160.050 and 1996 c 51 s 4 are each amended to read as follows:

The board may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) Adopt an official seal and alter the seal at its pleasure.

(3) Utilize the services of other governmental agencies.

(4) Accept from any federal agency loans or grants for the planning or financing of any project and enter into an agreement with the agency respecting the loans or grants.

(5) Conduct examinations and investigations and take testimony at public hearings of any matter material for its information that will assist in determinations related to the exercise of the board's lawful powers.

(6) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter.

(7) ((~~Exercise all the powers of a public corporation under chapter 39.84 RCW.~~

~~(8) Invest any funds received in connection with industrial development revenue bond financing not required for immediate use, as the board considers appropriate, subject to any agreements with owners of bonds.~~

~~(9) Arrange for lines of credit for industrial development revenue bonds from and enter into participation agreements with any financial institution.~~

~~(10) Issue industrial development revenue bonds in one or more series for the purpose of defraying the cost of acquiring or improving any industrial development facility or facilities and securing the payment of the bonds as provided in this chapter.~~

~~(11)~~)) Enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this chapter.

(((~~(12) Sell, purchase, or insure loans to finance the costs of industrial development facilities.~~

~~(13) Service, contract, and pay for the servicing of loans for industrial development facilities.~~

~~(14) Provide financial analysis and technical assistance for industrial development facilities when the board reasonably considers it appropriate.~~

~~(15) Collect, with respect to industrial development revenue bonds, reasonable interest, fees, and charges for making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments, and other evidences of indebtedness. Interest, fees, and charges are limited to the amounts required to pay the costs of the board, including operating and administrative expenses and reasonable allowances for losses that may be incurred.~~

~~(16) Procure insurance or guarantees from any party as allowable under law, including a governmental agency, against any loss in connection with its lease agreements, loan agreements, mortgage loans, and other assets or property.~~

~~(17)~~)) (8) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter.

((~~(18)~~)) (9) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter.

Sec. 5. RCW 43.160.060 and 2007 c 231 s 3 are each amended to read as follows:

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The board is authorized to make direct loans to political subdivisions of the state and to federally recognized Indian tribes for the purposes of assisting the political subdivisions and federally recognized Indian tribes in financing the cost of public facilities, including development of land and improvements for public facilities, project-specific environmental, capital facilities, land use, permitting, feasibility, and marketing studies and plans; project design, site planning, and analysis; project debt and revenue impact analysis; as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe and the finding by the board that financial circumstances require grant assistance to enable the project to move forward. However, ((at least ten)) no more than twenty-five percent of all financial assistance ((provided)) approved by the board in any biennium ((shall)) may consist of grants to political subdivisions and federally recognized Indian tribes.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

(1) The board shall not provide financial assistance:

(a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(b) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(c) ((For the acquisition of real property, including buildings and other fixtures which are a part of real property.

(d))) For a project the primary purpose of which is to facilitate or promote gambling.

(d) For a project located outside the jurisdiction of the applicant political subdivision or federally recognized Indian tribe.

(2) The board shall only provide financial assistance:

(a) For ((those projects which would result in specific private developments or expansions (i) in manufacturing, production, food processing, assembly, warehousing, advanced technology, research and development, and industrial distribution; (ii) for processing recyclable materials or for facilities that support recycling, including processes not currently provided in the state, including but not limited to, de-inking facilities, mixed waste paper, plastics, yard waste, and problem-waste processing; (iii) for manufacturing facilities that rely significantly on recyclable materials, including but not limited to waste tires and mixed waste paper; (iv) which support the relocation of businesses from nondistressed urban areas to rural counties or rural natural resources impact areas; or (v) which substantially support the trading of goods or services outside of the state's borders.

(b) For projects which it finds)) a project demonstrating convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made that:

(i) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board and is consistent with the state comprehensive economic development plan developed by the Washington economic development commission pursuant to chapter 43.162 RCW, once the plan is adopted; and

(ii) Will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities((.

(c) When the application includes convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made));

(b) For a project that cannot meet the requirement of (a) of this subsection but is a project that:

(i) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board and is consistent with the state comprehensive economic development plan developed by the Washington economic development commission pursuant to chapter 43.162 RCW, once the plan is adopted;

(ii) Is part of a local economic development plan consistent with applicable state planning requirements;

(iii) Can demonstrate project feasibility using standard economic principles; and

(iv) Is located in a rural community as defined by the board, or a rural county;

(c) For site-specific plans, studies, and analyses that address environmental impacts, capital facilities, land use, permitting, feasibility, marketing, project engineering, design, site planning, and project debt and revenue impacts, as grants not to exceed fifty thousand dollars.

(3) The board shall develop guidelines for local participation and allowable match and activities.

(4) An application must demonstrate local match and local participation, in accordance with guidelines developed by the board.

(5) An application must be approved by the political subdivision and supported by the local associate development organization or local workforce development council or approved by the governing body of the federally recognized Indian tribe.

(6) The board may allow de minimis general system improvements to be funded if they are critically linked to the viability of the project.

(7) An application must demonstrate convincing evidence that the median hourly wage of the private sector jobs created after the project is completed will exceed the countywide median hourly wage.

(8) The board shall prioritize each proposed project according to:

(a) The relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed ((and according)), but also giving consideration to the unemployment rate in the area in which the jobs would be located;

(b) The rate of return of the state's investment, ((that includes the)) including, but not limited to, the leveraging of private sector investment, anticipated job creation and retention, and expected increases in state and local tax revenues associated with the project; ((and))

(c) Whether the proposed project offers a health insurance plan for employees that includes an option for dependents of employees;

(d) Whether the public facility investment will increase existing capacity necessary to accommodate projected population and employment growth in a manner that supports infill and redevelopment of existing urban or industrial areas that are served by adequate public facilities. Projects should maximize the use of existing infrastructure and provide for adequate funding of necessary transportation improvements; and

(e) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007.

(((4))) (9) A responsible official of the political subdivision or the federally recognized Indian tribe shall be present during board deliberations and provide information that the board requests.

Before any financial assistance application is approved, the political subdivision or the federally recognized Indian tribe seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board.

Sec. 6. RCW 43.160.070 and 1999 c 164 s 104 are each amended to read as follows:

Public facilities financial assistance, when authorized by the board, is subject to the following conditions:

(1) The moneys in the public facilities construction loan revolving account ((~~and the distressed county public facilities construction loan account~~)) shall be used solely to fulfill commitments arising from financial assistance authorized in this chapter ((~~or, during the 1989-91 fiscal biennium, for economic development purposes as appropriated by the legislature~~)). The total outstanding amount which the board shall dispense at any time pursuant to this section shall not exceed the moneys available from the account((~~s~~)). ((~~The total amount of outstanding financial assistance in Pierce, King, and Snohomish counties shall never exceed sixty percent of the total amount of outstanding financial assistance disbursed by the board under this chapter without reference to financial assistance provided under RCW 43.160.220.~~))

(2) On contracts made for public facilities loans the board shall determine the interest rate which loans shall bear. The interest rate shall not exceed ten percent per annum. The board may provide reasonable terms and conditions for repayment for loans, including partial forgiveness of loan principal and interest payments on projects located in rural communities as defined by the board, or rural counties ((~~or rural natural resources impact areas, as the board determines~~)). The loans shall not exceed twenty years in duration.

(3) Repayments of loans made from the public facilities construction loan revolving account under the contracts for public facilities construction loans shall be paid into the public facilities construction loan revolving account. ((~~Repayments of loans made from the distressed county public facilities construction loan account under the contracts for public facilities construction loans shall be paid into the distressed county public facilities construction loan account.~~)) Repayments of loans from moneys from the new appropriation from the public works assistance account for the fiscal biennium ending June 30, 1999, shall be paid into the public works assistance account.

(4) When every feasible effort has been made to provide loans and loans are not possible, the board may provide grants upon finding that unique circumstances exist.

Sec. 7. RCW 43.160.074 and 1985 c 433 s 5 are each amended to read as follows:

(1) An application to the board from a political subdivision may also include a request for improvements to an existing state highway or highways. The application is subject to all of the applicable criteria relative to qualifying types of development set forth in this chapter, as well as procedures and criteria established by the board.

(2) Before board consideration of an application from a political subdivision that includes a request for improvements to an existing state highway or highways, the application shall be forwarded by the board to the department of transportation ((~~commission~~)).

(3) The board may not make its final determination on any application made under subsection (1) of this section before receiving approval, as submitted or amended or disapproval from the department of transportation ((~~commission~~)) as specified in RCW 47.01.280. Notwithstanding its disposition of the remainder of any such application, the board may not approve a request for improvements to an existing state highway or highways without the approval as submitted or amended of the department of transportation ((~~commission~~)) as specified in RCW 47.01.280.

(4) The board shall notify the department of transportation ((~~commission~~)) of its decision regarding any application made under this section.

Sec. 8. RCW 43.160.076 and 1999 c 164 s 105 are each reenacted and amended to read as follows:

(1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance in a biennium under this chapter ((~~without reference to financial assistance provided under RCW 43.160.220~~)), the board shall ((~~spend~~)) approve at least seventy-five percent of the first twenty million dollars of funds available and at least fifty percent of any additional funds for financial assistance for projects in rural counties ((~~or rural natural resources impact areas~~)).

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in rural counties ((~~or rural natural resources impact areas~~)) are clearly insufficient to use up the ((~~seventy-five percent~~)) allocations under subsection (1) of this section, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance to projects not located in rural counties ((~~or rural natural resources impact areas~~)).

Sec. 9. RCW 43.160.900 and 1993 c 320 s 8 are each amended to read as follows:

(1) The community economic revitalization board shall ((~~report to the appropriate standing committees of the legislature biennially on the implementation of~~)) conduct biennial outcome-based evaluations of the financial assistance provided under this chapter. The ((~~report~~)) evaluations shall include information on the number of applications for community economic revitalization board assistance((~~,~~)); the number and types of projects approved((~~,~~)); the grant or loan amount awarded each project((~~,~~)); the projected number of jobs created or retained by each project((~~,~~)); the actual number and cost of jobs created or retained by each project((~~,~~)); the wages and health benefits associated with the jobs; the amount of state funds and total capital invested in projects; the number and types of businesses assisted by funded projects; the location of funded projects; the transportation infrastructure available for completed projects; the local match and local participation obtained; the number of delinquent loans((~~,~~)); and the number of project terminations. The ((~~report~~)) evaluations may also include additional performance measures and recommendations for programmatic changes. ((~~The first report shall be submitted by December 1, 1994.~~))

(2)(a) By September 1st of each even-numbered year, the board shall forward its draft evaluation to the Washington state economic development commission for review and comment, as required in section 10 of this act. The board shall provide any additional information as may be requested by the commission for the purpose of its review.

(b) Any written comments or recommendations provided by the commission as a result of its review shall be included in the board's completed evaluation. The evaluation must be presented to the governor and appropriate committees of the legislature by December 31st of each even-numbered year. The initial evaluation must be submitted by December 31, 2010.

NEW SECTION. **Sec. 10.** A new section is added to chapter 43.162 RCW to read as follows:

The Washington state economic development commission shall review and provide written comments and recommendations for inclusion in the biennial evaluation conducted by the community economic revitalization board under RCW 43.160.900.

Sec. 11. RCW 43.160.080 and 1998 c 321 s 30 are each amended to read as follows:

There shall be a fund in the state treasury known as the public facilities construction loan revolving account, which shall consist of all moneys collected under this chapter((~~, except moneys of the board collected in connection with the issuance of industrial development revenue bonds and moneys deposited in the distressed county public facilities construction loan account under RCW 43.160.220,~~)) and any moneys appropriated to it by law((~~: PROVIDED, That seventy-five percent of all principal and interest payments on loans made with the proceeds~~

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~~deposited in the account under section 901, chapter 57, Laws of 1983 1st ex. sess. shall be deposited in the general fund as reimbursement for debt service payments on the bonds authorized in RCW 43.83.184~~)). Disbursements from the revolving account shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving account shall be subject in all respects to chapter 43.88 RCW.

NEW SECTION. **Sec. 12.** (1) The legislature recognizes that although many regions of the state are thriving, there are still distressed communities throughout rural and urban Washington where capital investments in community services initiatives could create vibrant local business districts and prosperous neighborhoods.

(2) The legislature also recognizes that nonprofit organizations provide a variety of community services that serve the needs of the citizens of Washington, including many services implemented under contract with state agencies. The legislature also finds that the efficiency and quality of these services may be enhanced by the provision of safe, reliable, and sound facilities, and that, in certain cases, it may be appropriate for the state to assist in the development of these facilities.

(3) The legislature finds that providing these capital investments is critical for the economic health of local distressed communities, helps build strong relationships with the state, and expands life opportunities for underserved, low-income populations.

NEW SECTION. **Sec. 13.** A new section is added to chapter 43.63A RCW to read as follows:

The definitions in this section apply throughout RCW 43.63A.125, this section, and sections 14 and 16 of this act unless the context clearly requires otherwise.

(1) "Department" means the department of community, trade, and economic development.

(2) "Distressed community" means: (a) A county that has an unemployment rate that is twenty percent above the state average for the immediately previous three years; (b) an area within a county that the department determines to be a low-income community, using as guidance the low-income community designations under the community development financial institutions fund's new markets tax credit program of the United States department of the treasury; or (c) a school district in which at least fifty percent of local elementary students receive free and reduced-price meals.

(3) "Nonprofit organization" means an organization that is tax exempt, or not required to apply for an exemption, under section 501(c)(3) of the federal internal revenue code of 1986, as amended.

(4) "Technical assistance" means professional services provided under contract to nonprofit organizations for feasibility studies, planning, and project management related to acquiring, constructing, or rehabilitating nonresidential community services facilities.

NEW SECTION. **Sec. 14.** A new section is added to chapter 43.63A RCW to read as follows:

The building communities fund account is created in the state treasury. The account shall consist of legislative appropriations and gifts, grants, or endowments from other sources as permitted by law. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for capital and technical assistance grants as provided in RCW 43.63A.125.

Sec. 15. RCW 43.63A.125 and 2006 c 371 s 233 are each amended to read as follows:

(1) The department shall establish ((~~a competitive process to solicit proposals for and prioritize projects that assist nonprofit organizations in~~)) the building communities fund program. Under the program, capital and technical assistance grants may be made to nonprofit organizations for acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential ((~~social~~)) community services, including social service centers and multipurpose community centers, including those serving a distinct or ethnic population. Such facilities must be located in a distressed community or serve a substantial number of low-income or disadvantaged persons.

(2) The department shall establish a competitive process to ((~~prioritize~~)) solicit and evaluate applications for the ((~~assistance~~)) building communities fund program as follows:

(a) The department shall conduct a statewide solicitation of project applications from ((~~local governments,~~)) nonprofit organizations((~~, and other entities, as determined by the department~~)).

(b) The department shall evaluate ((~~and rank~~)) applications in consultation with a citizen advisory committee using objective criteria. ((~~At a minimum~~)) To be considered qualified, applicants must demonstrate that the ((~~requested assistance~~)) proposed project:

(i) Will increase the range, efficiency, or quality of the ((~~social~~)) services ((~~it provides~~)) provided to citizens;

(ii) Will be located in a distressed community or will serve a substantial number of low-income or disadvantaged persons;

(iii) Will offer a diverse set of activities that meet multiple community service objectives, including but not limited to: Providing social services; expanding employment opportunities for or increasing the employability of community residents; or offering educational or recreational opportunities separate from the public school system or private schools, as long as recreation is not the sole purpose of the facility;

(iv) Reflects a long-term vision for the development of the community, shared by residents, businesses, leaders, and partners;

(v) Requires state funding to accomplish a discrete, usable phase of the project;

(vi) Is ready to proceed and will make timely use of the funds;

(vii) Is sponsored by one or more entities that have the organizational and financial capacity to fulfill the terms of the grant agreement and to maintain the project into the future;

(viii) Fills an unmet need for community services;

(ix) Will achieve its stated objectives; and

(x) Is a community priority as shown through tangible commitments of existing or future assets made to the project by community residents, leaders, businesses, and government partners.

(c) The evaluation ((~~and ranking~~)) process shall also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section shall not exceed twenty-five percent of the total cost of the project, except, under exceptional circumstances, the department may reduce the amount of nonstate match required. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

((~~(b) The department shall submit a prioritized list of recommended projects to the governor and the legislature in the department's biennial capital budget request beginning with the 2001-2003 biennium and thereafter. For the 1999- 2001 biennium, the department shall conduct a solicitation and ranking process, as described in (a) of this subsection, for projects to be funded by appropriations provided for this program in the 1999-2001 capital budget. The list shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project.~~

~~The total amount of recommended state funding for projects on a biennial project list shall not exceed ten million dollars. Except for the 1999-2001 biennium, the department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.~~

~~(c)~~)) (d) The department may not set a monetary limit to funding requests.

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(3) The department shall submit annually to the governor and the legislature in the department's capital budget request an unranked list of the qualified eligible projects for which applications were received. The list must include a description of each project, its total cost, and the amount of state funding requested. The appropriate fiscal committees of the legislature shall use this list to determine building communities fund projects that may receive funding in the capital budget. The total amount of state capital funding available for all projects on the annual list shall be determined by the capital budget beginning with the 2009-2011 biennium and thereafter. In addition, if cash funds have been appropriated, up to three million dollars may be used for technical assistance grants. The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(4) In addition to the list of qualified eligible projects, the department shall submit to the appropriate fiscal committees of the legislature a summary report that describes the solicitation and evaluation processes, including but not limited to the number of applications received, the total amount of funding requested, issues encountered, if any, and any recommendations for process improvements.

(5) After the legislature has approved a specific list of projects in law, the department shall develop and manage appropriate contracts with the selected applicants; monitor project expenditures and grantee performance; report project and contract information; and exercise due diligence and other contract management responsibilities as required.

(6) In contracts for grants authorized under this section the department shall include provisions which require that capital improvements shall be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities shall be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

NEW SECTION. **Sec. 16.** A new section is added to chapter 43.63A RCW to read as follows:

(1) The department shall develop accountability and reporting standards for grant recipients. At a minimum, the department shall use the criteria listed in RCW 43.63A.125(2)(b) to evaluate the progress of each grant recipient.

(2) Beginning January 1, 2011, the department shall submit an annual report to the appropriate committees of the legislature, including:

(a) A list of projects currently under contract with the department under the building communities fund program; a description of each project, its total cost, the amount of state funding awarded and expended to date, the project status, the number of low-income people served, and the extent to which the project has met the criteria in RCW 43.63A.125(2)(b); and

(b) Recommendations, if any, for policy and programmatic changes to the building communities fund program to better achieve program objectives.

NEW SECTION. **Sec. 17.** The following acts or parts of acts are each repealed:

(1) RCW 43.160.100 (Status of board) and 1984 c 257 s 3;

(2) RCW 43.160.120 (Commingling of funds prohibited) and 1984 c 257 s 5;

(3) RCW 43.160.130 (Personal liability) and 1984 c 257 s 6;

(4) RCW 43.160.140 (Accounts) and 1987 c 422 s 8 & 1984 c 257 s 7;

(5) RCW 43.160.150 (Faith and credit not pledged) and 1984 c 257 s 8;

(6) RCW 43.160.160 (Security) and 1984 c 257 s 9;

(7) RCW 43.160.170 (Special reserve account) and 1984 c 257 s 10;

(8) RCW 43.160.200 (Economic development account--Eligibility for assistance) and 2004 c 252 s 4, 1999 c 164 s 107, 1996 c 51 s 9, & 1995 c 226 s 16;

(9) RCW 43.160.210 (Distressed counties--Twenty percent of financial assistance) and 1998 c 321 s 31 & 1998 c 55 s 5;

(10) RCW 43.160.220 (Distressed county public facilities construction loan account) and 1998 c 321 s 9;

(11) RCW 43.160.230 (Job development fund program) and 2007 c 231 s 4 & 2005 c 425 s 2;

(12) RCW 43.160.240 (Job development fund program--Maximum grants) and 2005 c 425 s 3; and

(13) RCW 44.28.801 (State public infrastructure programs and funds--Inventory--Report) and 2006 c 371 s 229 & 2005 c 425 s 5.

NEW SECTION. **Sec. 18.** Sections 1, 2, 4 through 11, and 17 of this act take effect July 1, 2009.

NEW SECTION. **Sec. 19.** Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6855.

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 Second Substitute Senate Bill No. 6855.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6855 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6855, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6855, 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 Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SECOND SUBSTITUTE SENATE BILL NO. 6855, 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

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SUBSTITUTE HOUSE BILL NO. 2585, by House Committee on Finance (originally sponsored by Representatives McIntire and Kessler)

Concerning the business and occupation taxation of newspaper-labeled supplements.

The measure was read the second time.

MOTION

Senator Prentice 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 82.04.214 and 1994 c 22 s 1 are each amended to read as follows:

(1)(a) Until June 30, 2011, "newspaper" means:

(i) A publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind, including any supplement of a printed newspaper; and

(ii) An electronic version of a printed newspaper that:

(A) Shares content with the printed newspaper; and

(B) Is prominently identified by the same name as the printed newspaper or otherwise conspicuously indicates that it is a complement to the printed newspaper.

(b) For purposes of this section, "supplement" means a printed publication, including a magazine or advertising section, that is:

(i) Labeled and identified as part of the printed newspaper; and

(ii) Circulated or distributed:

(A) As an insert or attachment to the printed newspaper; or

(B) Separate and apart from the printed newspaper so long as the distribution is within the general circulation area of the newspaper.

(2) Beginning July 1, 2011, "newspaper" means a publication issued regularly at stated intervals at least twice a month and printed on newsprint in tabloid or broadsheet format folded loosely together without stapling, glue, or any other binding of any kind.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2008."

MOTION

Senator Prentice moved that the following amendment by Senator Prentice to the committee striking amendment be adopted.

On page 1, line 25 of the amendment, after "kind" insert ", including any supplement of a printed newspaper as defined in subsection (1)(b) of this section"

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Prentice on page 1, line 25 to the committee striking amendment to Substitute House Bill No. 2585.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Substitute House Bill No. 2585.

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

MOTION

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

On page 1, line 2 of the title, after "supplements;" strike the remainder of the title and insert "amending RCW 82.04.214; and providing an effective date."

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2585 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 Prentice and Zarelli 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. 2585 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2585 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 48

Voting nay: Senator Tom - 1

SUBSTITUTE HOUSE BILL NO. 2585 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 6:47 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Thursday, March 13, 2008.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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