SIXTY-FIRST LEGISLATURE - REGULAR SESSION

ONE HUNDREDTH DAY

House Chamber, Olympia, Tuesday, April 21, 2009

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

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Detrix Custodio and Kelby Hawthorne. The Speaker (Representative Moeller presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Representative Judy Warnick.

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

MESSAGES FROM THE SENATE

April 20, 2009

Mr. Speaker:

The Senate has passed:

SENATE BILL NO. 6121,
SENATE BILL NO. 6157,
SENATE BILL NO. 6167,
SENATE BILL NO. 6168,
SUBSTITUTE SENATE BILL NO. 6172,
SENATE BILL NO. 6179,
SENATE BILL NO. 6181,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 20, 2009

Mr. Speaker:

The President has signed the following:

SENATE BILL NO. 5452,
SUBSTITUTE SENATE BILL NO. 5461,
SUBSTITUTE SENATE BILL NO. 5468,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5473,
SENATE BILL NO. 5482,
SUBSTITUTE SENATE BILL NO. 5504,
SUBSTITUTE SENATE BILL NO. 5509,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5513,
SUBSTITUTE SENATE BILL NO. 5531,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5688,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 20, 2009

Mr. Speaker:

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

ENGROSSED SUBSTITUTE SENATE BILL NO. 5110,
SENATE BILL NO. 5120,
SUBSTITUTE SENATE BILL NO. 5199,
SUBSTITUTE SENATE BILL NO. 5248,
SUBSTITUTE SENATE BILL NO. 5270,
SUBSTITUTE SENATE BILL NO. 5286,
SUBSTITUTE SENATE BILL NO. 5318,
SECOND SUBSTITUTE SENATE BILL NO. 5346,
SUBSTITUTE SENATE BILL NO. 5401,
SUBSTITUTE SENATE BILL NO. 5501,
SUBSTITUTE SENATE BILL NO. 5665,
SENATE BILL NO. 5673,
SUBSTITUTE SENATE BILL NO. 5719,
SENATE BILL NO. 5720,
SUBSTITUTE SENATE BILL NO. 5724,
SENATE BILL NO. 5731,
SUBSTITUTE SENATE BILL NO. 5738,
ENGROSSED SENATE BILL NO. 5810,
SUBSTITUTE SENATE BILL NO. 5834,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5854,
SUBSTITUTE SENATE BILL NO. 5891,
SUBSTITUTE SENATE BILL NO. 5921,
ENGROSSED SENATE BILL NO. 5925,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 21, 2009

Mr. Speaker:

The President has signed the following:

SECOND SUBSTITUTE SENATE BILL NO. 5045,
SUBSTITUTE SENATE BILL NO. 5273,
SUBSTITUTE SENATE BILL NO. 5539,
SENATE BILL NO. 5540,
SUBSTITUTE SENATE BILL NO. 5556,
SUBSTITUTE SENATE BILL NO. 5561,
SUBSTITUTE SENATE BILL NO. 5565,
SUBSTITUTE SENATE BILL NO. 5566,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5583,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5601,
SUBSTITUTE SENATE BILL NO. 5608,
SUBSTITUTE SENATE BILL NO. 5610,
SUBSTITUTE SENATE BILL NO. 5616,
SENATE BILL NO. 5629,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5651,
SUBSTITUTE SENATE BILL NO. 5665,
SENATE BILL NO. 5673,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 1238 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.50.010 and 1998 c 269 s 4 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the legislative children's oversight committee, the office of ((~~[the]~~)) the family and children's ombudsman, the department of social and health services and its contracting agencies, schools; persons or public or private agencies having children committed to their custody; and any placement oversight committee created under RCW 72.05.415;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case;

(d) "Social file" means the juvenile court file containing the records and reports of the probation counselor.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the court to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment. The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050((~~(11)~~)) (12). The court shall release to the sentencing guidelines commission records needed for its research and data-gathering functions under RCW 9.94A.850 and other statutes. Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the sentencing guidelines commission under RCW 9.94A.850 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

(10) Requirements in this chapter relating to the court's authority to compel disclosure shall not apply to the legislative children's oversight committee or the office of the family and children's ombudsman.

(11) The administrative office of the courts shall maintain an electronic research copy of all records in the judicial information system related to juveniles. For purposes of this chapter, "research copy" means an electronic replica of all records entered into the judicial information system related to juveniles including records destroyed or removed from the judicial information system under RCW 13.50.050 (17) and (18) and 13.50.100(3) and used for the purposes of legitimate research for educational, scientific, or public purposes.

(12) The court shall release to the Washington state office of public defense records needed to implement the agency's oversight, technical assistance, and other functions as required by RCW 2.70.020. Access to the records used as a basis for oversight, technical assistance, or other agency functions is restricted to the Washington state office of public defense. The Washington state office of public defense shall maintain the confidentiality of all confidential information included in the records."

On page 1, line 3 of the title, after "defense;" strike the remainder of the title and insert "and amending RCW 13.50.010."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

POINT OF ORDER

Representative Green requested a scope and object ruling on the Senate amendment to House Bill No. 1238.

SPEAKER'S RULING

Mr. Speaker (Representative Moeller presiding): "The title of House Bill No. 1238 is narrowly drafted to allow two specified entities – the Washington State Center for Court Research and the Washington Office of Public Defense – to access juvenile court records.

The Senate amendment allows access to such records by other individuals and entities and is outside the scope of the bill.

Representative Green, your point of order is well taken."

There being no objection, the House did not concur in the Senate amendment to HOUSE BILL NO. 1238 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 16, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1701 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** (1) The legislature finds that the deployment and adoption of high-speed internet services and technology advancements enhance economic development and public safety for the state's communities. Such deployment also offers improved health care, access to consumer and legal services, increased educational and civic participation opportunities, and a better quality of life for the state's residents. The legislature further finds that improvements in the deployment and adoption of high-speed internet services and the strategic inclusion of technology advancements and technology education are critical to ensuring that Washington remains competitive and continues to provide a skilled workforce, attract businesses, and stimulate job growth.

(2) The legislature intends to 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. The legislature further intends to ensure that all Washington citizens, businesses, schools, and organizations are able to obtain and utilize broadband fully, regardless of location, economic status, literacy level, age, disability, structure, or size. In addition, the legislature intends that a statewide assessment of the availability, location, service levels, and other characteristics of high-speed internet services and other advanced telecommunications services in the state be conducted.

(3) In recognition of the importance of broadband deployment and adoption to the economy, health, safety, and welfare of the people of Washington, it is the purpose of this act to make high-speed internet service more readily available throughout the state, especially in areas and for populations with a low utilization rate.

NEW SECTION. Sec. 2. (1) The broadband mapping account is established in the custody of the state treasurer. The department shall deposit into the account such funds received from legislative appropriation, federal grants authorized under the federal broadband data improvement act, P.L. 110-385, Title I, and donated funds from private and public sources. Expenditures from the account may be used only for the purposes of sections 3 through 5 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 the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The department of information services is the single eligible entity in the state for purposes of the federal broadband data improvement act, P.L. 110-385, Title I.

(3) Funding received by the department under the federal broadband data improvement act, P.L. 110-385, Title I, must be used in accordance with the requirements of that act and, subject to those requirements, may be distributed by the department on a competitive basis to other entities in the state to achieve the purposes of that act.

(4) The department of information services shall consult with the department of community, trade, and economic development or its successor agency, the office of financial management, and the utilities and transportation commission in coordinating broadband mapping activities. In carrying out any broadband mapping activities, the provisions of P.L. 110-385, Title I, regarding trade secrets, commercial or financial information, and privileged or confidential information submitted by the federal communications commission or a broadband provider are deemed to encompass the consulted agencies.

NEW SECTION. Sec. 3. (1) Subject to the availability of federal or state funding, the department may:

(a) Develop an interactive web site to allow residents to self-report whether high-speed internet is available at their home or residence and at what speed; and

(b) Conduct a detailed survey of all high-speed internet infrastructure owned or leased by state agencies and creating a geographic information system map of all high-speed internet infrastructure owned or leased by the state.

(2) State agencies responding to a survey request from the department under subsection (1)(b) of this section shall respond in a reasonable and timely manner, not to exceed one hundred twenty days. The department shall request of state agencies, at a minimum:

(a) The total bandwidth of high-speed internet infrastructure owned or leased;

(b) The cost of maintaining that high-speed internet infrastructure, if owned, or the price paid for the high-speed internet infrastructure, if leased; and

(c) The leasing entity, if applicable.

(3) The department may adopt rules as necessary to carry out the provisions of this section.

(4) For purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency.

NEW SECTION. Sec. 4. (1) The department is authorized, through a competitive bidding process, to procure on behalf of the state a geographic information system map detailing high-speed internet infrastructure, service availability, and adoption. This geographic information system map may include adoption information, availability information, type of high-speed internet deployment technology, and available speed tiers for high-speed internet based on any publicly available data.

(2) The department may procure this map either by:

(a) Contracting for and purchasing a completed map from a third party; or

(b) Working directly with the federal communications commission to accept publicly available data.

(3) The department shall establish an accountability and oversight structure to ensure that there is transparency in the bidding and contracting process and full financial and technical accountability for any information or actions taken by a third-party contractor creating this map.

(4) In contracting for purchase of the map in subsection (2)(a) of this section, the department may take no action, nor impose any condition on the third party, that causes any record submitted by a public or private broadband service provider to the third party to meet the standard of a public record as defined in RCW 42.56.010. This prohibition does not apply to any records delivered to the department by the third party as a component of the completed map. For the purpose of RCW 42.56.010(2), the purchase by the department of a

completed map may not be deemed use or ownership by the department of the underlying information used by the third party to complete the map.

(5) Data or information that is publicly available as of the effective date of this section will not cease to be publicly available due to any provision of this act.

NEW SECTION. Sec. 5. (1) The department, in coordination with the department of community, trade, and economic development and the utilities and transportation commission, and such advisors as the department chooses, may prepare regular reports that identify the following:

(a) The geographic areas of greatest priority for the deployment of advanced telecommunications infrastructure in the state;

(b) A detailed explanation of how any amount of funding received from the federal government for the purposes of broadband mapping, deployment, and adoption will be or have been used; and

(c) A determination of how nonfederal sources may be utilized to achieve the purposes of broadband mapping, deployment, and adoption activities in the state.

(2) To the greatest extent possible, the initial report should be based upon the information identified in the geographic system maps developed under the requirements of this chapter.

(3) The initial report should be delivered to the appropriate committees of the legislature as soon as feasible, but no later than January 18, 2010.

(4) Future reports based upon the requirements of subsection (1) of this section should be delivered to the appropriate committees of the legislature by January 15th of each year.

Sec. 6. RCW 28B.32.010 and 2008 c 262 s 6 are each amended to read as follows:

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~~)) department may contract for services in order to carry out the ((~~extension's~~)) department'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; digital media literacy; 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.

Sec. 7. RCW 43.105.020 and 2003 c 18 s 2 are each amended to read as follows:

((~~As used in this chapter, unless the context indicates otherwise, the following definitions shall apply:~~)) The definitions in this section apply throughout this chapter unless the context clearly required otherwise.

(1) "Department" means the department of information services;

(2) "Board" means the information services board;

(3) "Committee" means the state interoperability executive committee;

(4) "Local governments" includes all municipal and quasi municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately;

(5) "Director" means the director of the department;

(6) "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. This term includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, telecommunications installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing;

(7) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network;

(8) "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other means;

(9) "Information" includes, but is not limited to, data, text, voice, and video;

(10) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions;

(11) "Information services" means data processing, telecommunications, office automation, and computerized information systems;

(12) "Equipment" means the machines, devices, and transmission facilities used in information processing, such as computers, word processors, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment;

(13) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments;

(14) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications;

(15) "Proprietary software" means that software offered for sale or license;

(16) "Video telecommunications" means the electronic interconnection of two or more sites for the purpose of transmitting and/or receiving visual and associated audio information. Video telecommunications shall not include existing public television broadcast stations as currently designated by the department of community, trade, and economic development under chapter 43.330 RCW;

(17) "K-20 educational network board" or "K-20 board" means the K- 20 educational network board created in RCW 43.105.800;

(18) "K-20 network technical steering committee" or "committee" means the K-20 network technical steering committee created in RCW 43.105.810;

(19) "K-20 network" means the network established in RCW 43.105.820;

(20) "Educational sectors" means those institutions of higher education, school districts, and educational service districts that use the network for distance education, data transmission, and other uses permitted by the K-20 board;

(21) "Administrator" means the community technology opportunity program administrator designated by the department;

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

(23) "Broadband" means a high-speed, high capacity transmission medium, using land-based, satellite, wireless, or any other mechanism, that can carry either signals or transmit data, or both, over long distances by using a wide range of frequencies;

(24) "Council" means the advisory council on digital inclusion created in section 10 of this act;

(25) "High-speed internet" means broadband.

Sec. 8. RCW 28B.32.030 and 2008 c 262 s 8 are each amended to read as follows:

The Washington community technology opportunity account is established in the state treasury. The governor or the governor's designee and the director or the director's designee shall deposit into the account federal grants to the state authorized under Division B, Title VI of the American recovery and reinvestment act of 2009, legislative appropriations, and donated funds from private and public sources for purposes related to broadband deployment and adoption, including matching funds required by the act. Donated funds from private and public sources may be deposited into the account. Expenditures from the account may be used only ((~~for~~)) as matching funds for federal and other grants to fund the operation of the community technology opportunity program ((~~as provided in RCW 28B.32.010~~)) under this chapter and to fund other activities authorized in this act. Only the ((~~administrator~~)) director or the ((~~administrator's~~)) director's designee may authorize expenditures from the account.

NEW SECTION. Sec. 9. (1) The governor may take all appropriate steps to carry out the purposes of Division B, Title VI of the American recovery and reinvestment act of 2009, P.L. 111-5, and maximize investment in broadband deployment and adoption in the state of Washington consistent with this act. Such steps may include the designation of a broadband deployment and adoption coordinator; review and prioritization of grant applications by public and private entities as directed by the national telecommunications and information administration, the rural utility services, and the federal communications commission; disbursement of block grant funding; and direction to state agencies to provide staffing as necessary to carry out this section. The authority for overseeing broadband adoption and deployment efforts on behalf of the state is vested in the department.

(2) The department may apply for federal funds and other grants or donations, may deposit such funds in the Washington community technology opportunity account created in RCW 28B.32.030 (as recodified by this act), may oversee implementation of federally funded or mandated broadband programs for the state and may adopt rules to administer the programs. These programs may include but are not limited to the following:

(a) Engaging in periodic statewide surveys of residents, businesses, and nonprofit organizations concerning their use and adoption of high-speed internet, computer, and related information technology for the purpose of identifying barriers to adoption;

(b) Working with communities to identify barriers to the adoption of broadband service and related information technology services by individuals, nonprofit organizations, and businesses;

(c) Identifying broadband demand opportunities in communities by working cooperatively with local organizations, government agencies, and businesses;

(d) Creating, implementing, and administering programs to improve computer ownership, technology literacy, digital media literacy, and high-speed internet access for populations not currently served or underserved in the state. This may include programs to provide low- income families, community-based nonprofit organizations, nonprofit entities, and public entities that work in partnership with nonprofit entities to provide increased access to computers and broadband, with reduced cost internet access;

(e) Administering the community technology opportunity program under chapter 28B.32 RCW (as recodified by this act);

(f) Creating additional programs to spur the development of high- speed internet resources in the state;

(g) Establishing technology literacy and digital inclusion programs and establishing low-cost hardware, software, and internet purchasing programs that may include allowing participation by community technology programs in state purchasing programs; and

(h) Developing technology loan programs targeting small businesses or businesses located in unserved and underserved areas.

NEW SECTION. Sec. 10. (1) Subject to the availability of federal or state funding, the department may reconvene the high-speed internet work group previously established by chapter 262, Laws of 2008. The work group is renamed the advisory council on digital inclusion, and is an advisory group to the department. The council must include, but is not limited to, volunteer representatives from community technology organizations, telecommunications providers, higher education institutions, K-12 education institutions,

public health institutions, public housing entities, and local government and other governmental entities that are engaged in community technology activities.

(2) The council shall prepare a report by January 15th of each year and submit it to the department, the governor, and the appropriate committees of the legislature. The report must contain:

(a) An analysis of how support from public and private sector partnerships, the philanthropic community, and other not-for-profit organizations in the community, along with strong relationships with the state board for community and technical colleges, the higher education coordinating board, and higher education institutions, could establish a variety of high-speed internet access alternatives for citizens;

(b) Proposed strategies for continued broadband deployment and adoption efforts, as well as further development of advanced telecommunications applications;

(c) Recommendations on methods for maximizing the state's research and development capacity at universities and in the private sector for developing advanced telecommunications applications and services, and recommendations on incentives to stimulate the demand for and development of these applications and services;

(d) An identification of barriers that hinder the advancement of technology entrepreneurship in the state; and

(e) An evaluation of programs designed to advance digital literacy and computer access that are made available by the federal government, local agencies, telecommunications providers, and business and charitable entities.

NEW SECTION. Sec. 11. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 12. Sections 2 through 5, 9, and 10 of this act are each added to chapter 43.105 RCW.

NEW SECTION. Sec. 13. RCW 28B.32.010, 28B.32.030, 28B.32.900, and 28B.32.901 are each recodified as sections in chapter 43.105 RCW.

NEW SECTION. Sec. 14. The following acts or parts of acts are each repealed:

1.1.1.1. RCW 28B.32.020 (Definitions) and 2008 c 262 s 7; and

1.1.1.2. RCW 43.105.350 (Request for information from providers-- Limitation) and 2008 c 262 s 3.

NEW SECTION. Sec. 15. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 16. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2009.

NEW SECTION. Sec. 17. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "activities;" strike the remainder of the title and insert "amending RCW 28B.32.010, 43.105.020, and 28B.32.030; adding new sections to chapter 43.105 RCW; creating new sections; recodifying RCW 28B.32.010, 28B.32.030, 28B.32.900, and 28B.32.901; repealing RCW 28B.32.020 and 43.105.350; providing an effective date; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House did not concur in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1701 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 16, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1782 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.065 and 2008 c 267 s 2 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) The department of social and health services shall submit a recommendation to the court as to the further need for shelter care in all cases in which it is the petitioner. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative and shall determine whether the department has made efforts in this regard;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

(e) Is the placement proposed by the agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare act apply, and whether there is compliance with the Indian child welfare act, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order, including why placement with a relative is not appropriate at this time. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative under (b) of this subsection or with another suitable person under (d) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

Sec. 2. RCW 13.34.130 and 2007 c 413 s 6 and 2007 c 412 s 2 are each reenacted and amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose those services, including housing assistance, that least interfere with family autonomy and are adequate to protect the child.

(b) Order the child to be removed from his or her home and into the custody, control, and care of a relative or the department or a licensed child placing agency for supervision of the child's placement. The department or agency supervising the child's placement has the authority to place the child, subject to review and approval by the court (i) with a relative as defined in RCW 74.15.020(2)(a), (ii) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW, or (iii) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is: (A) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; and (B) willing and available to care for the child.

(2) Placement of the child with a relative under this subsection shall be given preference by the court. <u>If the court does not place the child with a relative, the court shall indicate why placement with a relative did not occur.</u> An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out- of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(3) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(6) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency

to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

Sec. 3. RCW 13.34.138 and 2007 c 413 s 8 and 2007 c 410 s 1 are each reenacted and amended to read as follows:

(1) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145 (1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department or supervising agency may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department or supervising agency must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department or supervising agency of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an entitlement to services or a duty on the part of the department or supervising agency to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the agency is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

(vii) Whether preference has been given to placement with the child's relatives and if not, the court shall indicate why the child is not in a relative placement;

(viii) Whether both in-state and, where appropriate, out-of-state placements have been considered;

(ix) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(x) Whether terms of visitation need to be modified;

(xi) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

(xii) Whether any additional court orders need to be made to move the case toward permanency; and

(xiii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with an agency case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the agency case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child,

including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's ability to order housing assistance under ((~~RCW 13.34.130 and this section~~)) this chapter is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b) subject to the availability of funds appropriated for this specific purpose.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3).

NEW SECTION. Sec. 4. A new section is added to chapter 13.34 RCW to read as follows:

(1) At a disposition, review, or any other hearing that occurs after a dependency is established under this chapter, the court shall ensure that a dependent child over the age of twelve, who is otherwise present in the courtroom, is aware of and understands the duties and responsibilities the department has to a child subject to a dependency including, but not limited to, the following:

(a) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(b) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(c) Parent-child visits;

(d) Statutory preference for placement with a relative, if appropriate; and

(e) Statutory preference that an out-of-home placement be found that would allow the child to remain in the same school district, if practical.

(2) If the dependent child is already represented by counsel, the court need not comply with subsection (1) of this section.

NEW SECTION. Sec. 5. A new section is added to chapter 13.34 RCW to read as follows:

(1) The administrative office of the courts shall develop standard court forms and format rules for mandatory use by parties in dependency matters commenced under this chapter or chapter 26.44 RCW. Forms shall be developed not later than November 1, 2009, and the mandatory use requirement shall be effective January 1, 2010. The administrative office of the courts has continuing responsibility to develop and revise mandatory forms and format rules as appropriate.

(2) According to rules established by the administrative office of the courts, a party may delete unnecessary portions of the forms and may supplement the mandatory forms with additional material.

(3) Failure by a party to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. The court may, however, require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both.

(4) The administrative office of the courts shall distribute a master copy of the mandatory forms to all county court clerks. Upon request, the administrative office of the courts and county clerks must distribute the forms to the public and may charge for the cost of production and distribution of the forms. Private vendors also may distribute the forms. Distribution of forms may be in printed or electronic form.

Sec. 6. RCW 74.13.031 and 2008 c 267 s 6 are each amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. The policy for monitoring placements under this section shall require that children in out-of- home care and in-home dependencies and their caregivers receive a private and individual face-to-face visit each month.

(a) The department shall conduct the monthly visits with children and caregivers required under this section unless the child's placement is being supervised under a contract between the department and a private agency accredited by a national child welfare accrediting entity, in which case the private agency shall, within existing resources, conduct the monthly visits with the child and with the child's caregiver according to the standards described in this subsection and shall provide the department with a written report of the visits within fifteen days of completing the visits.

(b) In cases where the monthly visits required under this subsection are being conducted by a private agency, the department shall conduct a face-to-face health and safety visit with the child at least once every ninety days.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and

necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10)(a) Have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

(b)(i) Beginning in 2006, the department has the authority to allow up to fifty youth reaching age eighteen to continue in foster care or group care as needed to participate in or complete a posthigh school academic or vocational program, and to receive necessary support and transition services.

(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen to remain in foster care or group care as provided in (b)(i) of this subsection.

(iii) A youth who remains eligible for such placement and services pursuant to department rules may continue in foster care or group care until the youth reaches his or her twenty-first birthday. Eligibility requirements shall include active enrollment in a posthigh school academic or vocational program and maintenance of a 2.0 grade point average.

(11) Refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(12) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(13) Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(14) Have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(15) Consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(16)(a) Within current funding levels, place on the public web site maintained by the department a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative, if appropriate; and

(v) Statutory preference that an out-of-home placement be found that would allow the child to remain in the same school district, if practical.

(b) The document must be prepared in conjunction with a community- based organization and must be updated as needed.

NEW SECTION. Sec. 7. A new section is added to chapter 74.13 RCW to read as follows:

Once a dependency is established under chapter 13.34 RCW, the social worker assigned to the case shall provide the dependent child with a document containing the information contained in RCW 74.13.031(16). The social worker shall also explain the content of the document to the child and direct the child to the department's web site for further information. The social worker shall document, in the electronic data system, that this requirement was met.

Sec. 8. RCW 74.13.109 and 1990 c 285 s 7 are each amended to read as follows:

(1) The secretary shall issue rules and regulations to assist in the administration of the program of adoption support authorized by RCW 26.33.320 and 74.13.100 through 74.13.145.

(2) Disbursements from the appropriations available from the general fund shall be made pursuant to such rules and regulations and pursuant to agreements conforming thereto to be made by the secretary with parents for the purpose of supporting the adoption of children in, or likely to be placed in, foster homes or child caring institutions who are found by the secretary to be difficult to place in adoption because of physical or other reasons; including, but not limited to, physical or mental handicap, emotional disturbance, ethnic background, language, race, color, age, or sibling grouping.

(3) Such agreements shall meet the following criteria:

((~~(1)~~)) (a) The child whose adoption is to be supported pursuant to such agreement shall be or have been a child hard to place in adoption.

((~~(2)~~)) (b) Such agreement must relate to a child who was or is residing in a foster home or child-caring institution or a child who,

in the judgment of the secretary, is both eligible for, and likely to be placed in, either a foster home or a child-caring institution.

(((~~(3)~~))) (c) Such agreement shall provide that adoption support shall not continue beyond the time that the adopted child reaches eighteen years of age, becomes emancipated, dies, or otherwise ceases to need support, provided that if the secretary shall find that continuing dependency of such child after such child reaches eighteen years of age warrants the continuation of support pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 the secretary may do so, subject to all the provisions of RCW 26.33.320 and 74.13.100 through 74.13.145, including annual review of the amount of such support.

(((~~(4)~~))) (d) Any prospective parent who is to be a party to such agreement shall be a person who has the character, judgment, sense of responsibility, and disposition which make him or her suitable as an adoptive parent of such child.

(4) Six months before an adoption is finalized under chapter 26.33 RCW and RCW 74.13.100 through 74.13.145, the department must provide to the prospective adoptive parents, in writing, information describing the limits of the adoption support program including the following information:

(a) The limits on monthly in-cash payments to adoptive families;

(b) The limits on the availability of mental health services and the funds with which to pay for these services;

(c) How to access mental health services for children receiving adoption support services;

(d) The limits on the one-time cash payments to adoptive families for expenses related to their adopted children;

(e) That payment for residential or group care is not available for adopted children under the adoption support program;

(f) The risks inherent in adopting a child from the department.

Sec. 9. RCW 74.13.250 and 1990 c 284 s 2 are each amended to read as follows:

(1) Preservice training is recognized as a valuable tool to reduce placement disruptions, the length of time children are in care, and foster parent turnover rates. Preservice training also assists potential foster parents in making their final decisions about foster parenting and assists social service agencies in obtaining information about whether to approve potential foster parents.

(2) Foster parent preservice training shall include information about the potential impact of placement on foster children; social service agency administrative processes; the requirements, responsibilities, expectations, and skills needed to be a foster parent; attachment, separation, and loss issues faced by birth parents, foster children, and foster parents; child management and discipline; birth family relationships; information on the limits of the adoption support program as provided in RCW 74.13.109(4); and helping children leave foster care. Preservice training shall assist applicants in making informed decisions about whether they want to be foster parents. Preservice training shall be designed to enable the agency to assess the ability, readiness, and appropriateness of families to be foster parents. As a decision tool, effective preservice training provides potential foster parents with enough information to make an appropriate decision, affords potential foster parents an opportunity to discuss their decision with others and consider its implications for their family, clarifies foster family expectations, presents a realistic picture of what foster parenting involves, and allows potential foster parents to consider and explore the different types of children they might serve.

(3) Preservice training shall be completed prior to the issuance of a foster care license, except that the department may, on a case by case basis, issue a written waiver that allows the foster parent to complete the training after licensure, so long as the training is completed within ninety days following licensure.

Sec. 10. RCW 74.13.333 and 2004 c 181 s 1 are each amended to read as follows:

(1) A foster parent who believes that a department employee has retaliated against the foster parent or in any other manner discriminated against the foster parent because:

(((~~(1)~~))) (a) The foster parent made a complaint with the office of the family and children's ombudsman, the attorney general, law enforcement agencies, or the department, provided information, or otherwise cooperated with the investigation of such a complaint;

(((~~(2)~~))) (b) The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW;

(((~~(3)~~))) (c) The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW;

(((~~(4)~~))) (d) The foster parent has advocated for services on behalf of the foster child;

(((~~(5)~~))) (e) The foster parent has sought to adopt a foster child in the foster parent's care; or

(((~~(6)~~))) (f) The foster parent has discussed or consulted with anyone concerning the foster parent's rights under this chapter or chapter 74.15 or 13.34 RCW, may file a complaint with the office of the family and children's ombudsman.

(2) The ombudsman may investigate the allegations of retaliation. The ombudsman shall have access to all relevant information and resources held by or within the department by which to conduct the investigation. Upon the conclusion of its investigation, the ombudsman shall provide its findings in written form to the department.

(3) The department shall notify the office of the family and children's ombudsman in writing, within thirty days of receiving the ombudsman's findings, of any personnel action taken or to be taken with regard to the department employee.

(4) The office of the family and children's ombudsman shall also include its recommendations regarding complaints filed under this section in its annual report pursuant to RCW 43.06A.030. The office of the family and children's ombudsman shall identify trends which may indicate a need to improve relations between the department and foster parents."

On page 1, line 2 of the title, after "matters;" strike the remainder of the title and insert "amending RCW 13.34.065, 74.13.031, 74.13.109, 74.13.250, and 74.13.333; reenacting and amending RCW 13.34.130 and 13.34.138; adding new sections to chapter 13.34 RCW; and adding a new section to chapter 74.13 RCW."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House did not concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1782 and asked the Senate to recede therefrom.

The Speaker (Representative Moeller presiding) announced that the House was under the “three minute rule” limiting debate to three minutes per person.

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1385 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec.** 1. RCW 9A.44.093 and 2005 c 262 s 2 are each amended to read as follows:

(1) A person is guilty of sexual misconduct with a minor in the first degree when: (a) The person has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with another person who is at least sixteen years old but less than eighteen years old and not married to the perpetrator, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual intercourse with the victim; (b) the person is a school employee who has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with ((~~a registered~~)) an enrolled student of the school who is at least sixteen years old and not more than twenty-one years old and not married to the employee, if the employee is at least sixty months older than the student; or (c) the person is a foster parent who has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with his or her foster child who is at least sixteen.

(2) Sexual misconduct with a minor in the first degree is a class C felony.

(3) For the purposes of this section((~~,~~)):

(a) "Enrolled student" means any student enrolled at or attending a program hosted or sponsored by a common school as defined in RCW 28A.150.020, or a student enrolled at or attending a program hosted or sponsored by a private school under chapter 28A.195 RCW, or any person who receives home-based instruction under chapter 28A.200 RCW.

(b) "School employee" means an employee of a common school defined in RCW 28A.150.020, or a grade kindergarten through twelve employee of a private school under chapter 28A.195 RCW, who is not enrolled as a student of the common school or private school.

Sec. 2. RCW 9A.44.096 and 2005 c 262 s 3 are each amended to read as follows:

(1) A person is guilty of sexual misconduct with a minor in the second degree when: (a) The person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another person who is at least sixteen years old but less than eighteen years old and not married to the perpetrator, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual contact with the victim; (b) the person is a school employee who has, or knowingly causes another person under the age of eighteen to have, sexual contact with ((~~a registered~~)) an enrolled student of the school who is at least sixteen years old and not more than twenty-one years old and not married to the employee, if the employee is at least sixty months older than the student; or (c) the person is a foster parent who has, or knowingly causes another person under the age of eighteen to have, sexual contact with his or her foster child who is at least sixteen.

(2) Sexual misconduct with a minor in the second degree is a gross misdemeanor.

(3) For the purposes of this section((~~,~~)):

(a) "Enrolled student" means any student enrolled at or attending a program hosted or sponsored by a common school as defined in RCW 28A.150.020, or a student enrolled at or attending a program hosted or sponsored by a private school under chapter 28A.195 RCW, or any person who receives home-based instruction under chapter 28A.200 RCW.

(b) "School employee" means an employee of a common school defined in RCW 28A.150.020, or a grade kindergarten through twelve employee of a private school under chapter 28A.195 RCW, who is not enrolled as a student of the common school or private school."

On page 1, line 1 of the title, after "employees;" strike the remainder of the title and insert "and amending RCW 9A.44.093 and 9A.44.096."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1385 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1385, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1385, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 82; Nays, 16; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Blake, Campbell, Chandler, Clibborn, Cody, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericks, Ericksen, Finn, Flannigan, Grant-Herriot, Green, Haigh, Haler, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, O'Brien, Orcutt, Orwall, Parker, Pearson, Pettigrew, Priest, Probst, Quall, Roach, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White and Mr. Speaker.

Voting nay: Representatives Appleton, Carlyle, Chase, Conway, Darneille, Dickerson, Dunshee, Eddy, Goodman, Hasegawa, Nelson, Ormsby, Pedersen, Roberts, Williams and Wood.

ENGROSSED HOUSE BILL NO. 1385, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on ENGROSSED HOUSE BILL NO. 1385.

STEVE CONWAY, 29th District

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 1484 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec.** 1. RCW 76.09.040 and 2000 c 11 s 3 are each amended to read as follows:

(1) Where necessary to accomplish the purposes and policies stated in RCW 76.09.010, and to implement the provisions of this chapter, the board shall adopt forest practices rules pursuant to chapter 34.05 RCW and in accordance with the procedures enumerated in this section that:

(a) Establish minimum standards for forest practices;

(b) Provide procedures for the voluntary development of resource management plans which may be adopted as an alternative to the minimum standards in (a) of this subsection if the plan is consistent with the purposes and policies stated in RCW 76.09.010 and the plan meets or exceeds the objectives of the minimum standards;

(c) Set forth necessary administrative provisions;

(d) Establish procedures for the collection and administration of forest practice fees as set forth by this chapter; and

(e) Allow for the development of watershed analyses.

Forest practices rules pertaining to water quality protection shall be adopted by the board after reaching agreement with the director of the department of ecology or the director's designee on the board with respect thereto. All other forest practices rules shall be adopted by the board.

Forest practices rules shall be administered and enforced by either the department or the local governmental entity as provided in this chapter. Such rules shall be adopted and administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

(2) The board shall prepare proposed forest practices rules. In addition to any forest practices rules relating to water quality protection proposed by the board, the department of ecology may submit to the board proposed forest practices rules relating to water quality protection.

Prior to initiating the rule-making process, the proposed rules shall be submitted for review and comments to the department of fish and wildlife and to the counties of the state. After receipt of the proposed forest practices rules, the department of fish and wildlife and the counties of the state shall have thirty days in which to review and submit comments to the board, and to the department of ecology with respect to its proposed rules relating to water quality protection. After the expiration of such thirty day period the board and the department of ecology shall jointly hold one or more hearings on the proposed rules pursuant to chapter 34.05 RCW. At such hearing(s) any county may propose specific forest practices rules relating to problems existing within such county. The board may adopt and the department of ecology may approve such proposals if they find the proposals are consistent with the purposes and policies of this chapter.

(3) The board shall establish by rule a program for the acquisition of riparian open space ((~~program that includes acquisition of a fee interest in, or at the landowner's option, a conservation easement on~~)) and critical habitat for threatened or endangered species as designated by the board. Acquisition must be a conservation easement. Lands eligible for acquisition are forest lands within unconfined ((~~avulsing~~)) channel migration zones or forest lands containing critical habitat for threatened or endangered species as designated by the board. Once acquired, these lands may be held and managed by the department, transferred to another state agency, transferred to an appropriate local government agency, or transferred to a private nonprofit nature conservancy corporation, as defined in RCW 64.04.130, in fee or transfer of management obligation. The board shall adopt rules governing the acquisition by the state or donation to the state of such interest in lands including the right of refusal if the lands are subject to unacceptable liabilities. The rules shall include definitions of qualifying lands, priorities for acquisition, and provide for the opportunity to transfer such lands with limited warranties and with a description of boundaries that does not require full surveys where the cost of securing the surveys would be unreasonable in relation to the value of the lands conveyed. The rules shall provide for the management of the lands for ecological protection or fisheries enhancement. ((~~Because there are few, if any, comparable sales of forest land within unconfined avulsing channel migration zones, separate from the other lands or assets, these lands are likely to be extraordinarily difficult to appraise and the cost of a conventional appraisal often would be unreasonable in relation to the value of the land involved. Therefore, for the purposes of voluntary sales under this section, the legislature declares that these lands are presumed to have a value equal to: (a) The acreage in the sale multiplied by the average value of commercial forest land in the region under the land value tables used for property tax purposes under RCW 84.33.120; plus (b) the cruised volume of any timber located within the channel migration multiplied by the appropriate quality code stumpage value for timber of the same species shown on the appropriate table used for timber harvest excise tax purposes under RCW 84.33.091. For purposes of this section, there shall be an eastside region and a westside region as defined in the forests and fish report as defined in RCW 76.09.020.~~)) For the purposes of conservation easements entered into under this section, the following apply: (a) For conveyances of a conservation easement in which the landowner conveys an interest in the trees only, the compensation must include the timber value component, as determined by the cruised volume of any timber located within the channel migration zone or critical habitat for threatened or endangered species as designated by the board, multiplied by the appropriate quality code stumpage value for timber of the same species shown on the appropriate table used for timber harvest excise tax purposes under RCW 84.33.091; (b) for conveyances of a conservation easement in which the landowner conveys interests in both land and trees, the compensation must include the timber value component in (a) of this subsection plus such portion of the land value component as determined just and equitable by the department. The land value component must be the acreage of qualifying channel migration zone or critical habitat for threatened or endangered species as determined by the board, to be conveyed, multiplied by the average per acre value of all commercial forest land in western Washington or the

average for eastern Washington, whichever average is applicable to the qualifying lands. The department must determine the western and eastern Washington averages based on the land value tables established by RCW 84.33.140 and revised annually by the department of revenue.

(4) Subject to appropriations sufficient to cover the cost of such an acquisition program and the related costs of administering the program, the department ((~~is directed to purchase a fee interest or, at the owner's option,~~)) must establish a conservation easement in land that an owner tenders for purchase; provided that such lands have been taxed as forest lands and are located within an unconfined ((~~avulsing~~)) channel migration zone or contain critical habitat for threatened or endangered species as designated by the board. Lands acquired under this section shall become riparian or habitat open space. These acquisitions shall not be deemed to trigger the compensating tax of chapters 84.33 and 84.34 RCW.

(5) Instead of offering to sell interests in qualifying lands, owners may elect to donate the interests to the state.

(6) Any acquired interest in qualifying lands by the state under this section shall be managed as riparian open space or critical habitat.

Sec. 2. RCW 84.33.140 and 2007 c 54 s 24 are each amended to read as follows:

(1) When land has been designated as forest land under RCW 84.33.130, a notation of the designation shall be made each year upon the assessment and tax rolls. A copy of the notice of approval together with the legal description or assessor's parcel numbers for the land shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded.

(2) In preparing the assessment roll as of January 1, 2002, for taxes payable in 2003 and each January 1st thereafter, the assessor shall list each parcel of designated forest land at a value with respect to the grade and class provided in this subsection and adjusted as provided in subsection (3) of this section. The assessor shall compute the assessed value of the land using the same assessment ratio applied generally in computing the assessed value of other property in the county. Values for the several grades of bare forest land shall be as follows:

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
	1	$234
1	2	229
	3	217
	4	157
	1	198
2	2	190
	3	183
	4	132
	1	154
3	2	149
	3	148
	4	113
	1	117
4	2	114
	3	113
	4	86
	1	85
5	2	78
	3	77
	4	52
	1	43
6	2	39
	3	39
	4	37
	1	21
7	2	21
	3	20
	4	20
8		1

(3) On or before December 31, 2001, the department shall adjust by rule under chapter 34.05 RCW, the forest land values contained in subsection (2) of this section in accordance with this subsection, and shall certify the adjusted values to the assessor who will use these values in preparing the assessment roll as of January 1, 2002. For the adjustment to be made on or before December 31, 2001, for use in the 2002 assessment year, the department shall:

(a) Divide the aggregate value of all timber harvested within the state between July 1, 1996, and June 30, 2001, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(b) Divide the aggregate value of all timber harvested within the state between July 1, 1995, and June 30, 2000, by the aggregate harvest volume for the same period, as determined from the harvester excise tax returns filed with the department under RCW 84.33.074; and

(c) Adjust the forest land values contained in subsection (2) of this section by a percentage equal to one-half of the percentage change in the average values of harvested timber reflected by comparing the resultant values calculated under (a) and (b) of this subsection.

(4) For the adjustments to be made on or before December 31, 2002, and each succeeding year thereafter, the same procedure described in subsection (3) of this section shall be followed using harvester excise tax returns filed under RCW 84.33.074. However, this adjustment shall be made to the prior year's adjusted value, and the five-year periods for calculating average harvested timber values shall be successively one year more recent.

(5) Land graded, assessed, and valued as forest land shall continue to be so graded, assessed, and valued until removal of designation by the assessor upon the occurrence of any of the following:

(a) Receipt of notice from the owner to remove the designation;

(b) Sale or transfer to an ownership making the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of forest land designation continuance, except transfer to an owner who is an heir or devisee of a deceased owner, shall not, by itself, result in removal of designation. The signed notice of continuance shall be attached to the real estate excise tax affidavit provided for in RCW 82.45.150. The notice of continuance shall be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all compensating taxes calculated under subsection (11) of this section shall become due and payable by the seller or transferor at time of sale. The auditor shall not accept an instrument of conveyance regarding designated forest land for filing or recording unless the new owner has signed the notice of continuance or the compensating tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (11)

of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that:

(i) The land is no longer primarily devoted to and used for growing and harvesting timber. However, land shall not be removed from designation if a governmental agency, organization, or other recipient identified in subsection (13) or (14) of this section as exempt from the payment of compensating tax has manifested its intent in writing or by other official action to acquire a property interest in the designated forest land by means of a transaction that qualifies for an exemption under subsection (13) or (14) of this section. The governmental agency, organization, or recipient shall annually provide the assessor of the county in which the land is located reasonable evidence in writing of the intent to acquire the designated land as long as the intent continues or within sixty days of a request by the assessor. The assessor may not request this evidence more than once in a calendar year;

(ii) The owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW or any applicable rules under Title 76 RCW; or

(iii) Restocking has not occurred to the extent or within the time specified in the application for designation of such land.

(6) Land shall not be removed from designation if there is a governmental restriction that prohibits, in whole or in part, the owner from harvesting timber from the owner's designated forest land. If only a portion of the parcel is impacted by governmental restrictions of this nature, the restrictions cannot be used as a basis to remove the remainder of the forest land from designation under this chapter. For the purposes of this section, "governmental restrictions" includes: (a) Any law, regulation, rule, ordinance, program, or other action adopted or taken by a federal, state, county, city, or other governmental entity; or (b) the land's zoning or its presence within an urban growth area designated under RCW 36.70A.110.

(7) The assessor shall have the option of requiring an owner of forest land to file a timber management plan with the assessor upon the occurrence of one of the following:

(a) An application for designation as forest land is submitted; or

(b) Designated forest land is sold or transferred and a notice of continuance, described in subsection (5)(c) of this section, is signed.

(8) If land is removed from designation because of any of the circumstances listed in subsection (5)(a) through (c) of this section, the removal shall apply only to the land affected. If land is removed from designation because of subsection (5)(d) of this section, the removal shall apply only to the actual area of land that is no longer primarily devoted to the growing and harvesting of timber, without regard to any other land that may have been included in the application and approved for designation, as long as the remaining designated forest land meets the definition of forest land contained in RCW 84.33.035.

(9) Within thirty days after the removal of designation as forest land, the assessor shall notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038.

(10) Unless the removal is reversed on appeal a copy of the notice of removal with a notation of the action, if any, upon appeal, together with the legal description or assessor's parcel numbers for the land removed from designation shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded and a notation of removal from designation shall immediately be made upon the assessment and tax rolls. The assessor shall revalue the land to be removed with reference to its true and fair value as of January 1st of the year of removal from designation. Both the assessed value before and after the removal of designation shall be listed. Taxes based on the value of the land as forest land shall be assessed and payable up until the date of removal and taxes based on the true and fair value of the land shall be assessed and payable from the date of removal from designation.

(11) Except as provided in subsection (5)(c), (13), or (14) of this section, a compensating tax shall be imposed on land removed from designation as forest land. The compensating tax shall be due and payable to the treasurer thirty days after the owner is notified of the amount of this tax. As soon as possible after the land is removed from designation, the assessor shall compute the amount of compensating tax and mail a notice to the owner of the amount of compensating tax owed and the date on which payment of this tax is due. The amount of compensating tax shall be equal to the difference between the amount of tax last levied on the land as designated forest land and an amount equal to the new assessed value of the land multiplied by the dollar rate of the last levy extended against the land, multiplied by a number, in no event greater than nine, equal to the number of years for which the land was designated as forest land, plus compensating taxes on the land at forest land values up until the date of removal and the prorated taxes on the land at true and fair value from the date of removal to the end of the current tax year.

(12) Compensating tax, together with applicable interest thereon, shall become a lien on the land which shall attach at the time the land is removed from designation as forest land and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any compensating tax unpaid on its due date shall thereupon become delinquent. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(13) The compensating tax specified in subsection (11) of this section shall not be imposed if the removal of designation under subsection (5) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other forest land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) A donation of fee title, development rights, or the right to harvest timber, to a government agency or organization qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections, or the sale or transfer of fee title to a governmental entity or a nonprofit nature conservancy corporation, as defined in RCW 64.04.130, exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage council and natural heritage plan as defined in chapter 79.70 RCW or approved for state natural resources conservation area purposes as defined in chapter 79.71 RCW. At such time as the land is not used for the purposes enumerated, the compensating tax specified in subsection (11) of this section shall be imposed upon the current owner;

(d) The sale or transfer of fee title to the parks and recreation commission for park and recreation purposes;

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located that disallows the present use of the land;

(f) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(g) The creation, sale, or transfer of a ((~~fee interest or a~~)) conservation easement ((~~for the riparian open space program~~)) of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040; or

(h) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under this chapter, or classified under chapter 84.34 RCW continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (13)(h).

(14) In a county with a population of more than ((~~one million~~)) six hundred thousand inhabitants, the compensating tax specified in subsection (11) of this section shall not be imposed if the removal of designation as forest land under subsection (5) of this section resulted solely from:

(a) An action described in subsection (13) of this section; or

(b) A transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation, as defined in RCW 64.04.130, to protect or enhance public resources, or to preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment, the property interest being transferred. At such time as the property interest is not used for the purposes enumerated, the compensating tax shall be imposed upon the current owner.

Sec. 3. RCW 84.34.108 and 2007 c 54 s 25 are each amended to read as follows:

(1) When land has once been classified under this chapter, a notation of the classification shall be made each year upon the assessment and tax rolls and the land shall be valued pursuant to RCW 84.34.060 or 84.34.065 until removal of all or a portion of the classification by the assessor upon occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of the classification;

(b) Sale or transfer to an ownership, except a transfer that resulted from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the property for the same use as before, making all or a portion of the land exempt from ad valorem taxation;

(c) Sale or transfer of all or a portion of the land to a new owner, unless the new owner has signed a notice of classification continuance, except transfer to an owner who is an heir or devisee of a deceased owner shall not, by itself, result in removal of classification. The notice of continuance shall be on a form prepared by the department. If the notice of continuance is not signed by the new owner and attached to the real estate excise tax affidavit, all additional taxes calculated pursuant to subsection (4) of this section shall become due and payable by the seller or transferor at time of sale. The auditor shall not accept an instrument of conveyance regarding classified land for filing or recording unless the new owner has signed the notice of continuance or the additional tax has been paid, as evidenced by the real estate excise tax stamp affixed thereto by the treasurer. The seller, transferor, or new owner may appeal the new assessed valuation calculated under subsection (4) of this section to the county board of equalization in accordance with the provisions of RCW 84.40.038. Jurisdiction is hereby conferred on the county board of equalization to hear these appeals;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of the land no longer meets the criteria for classification under this chapter. The criteria for classification pursuant to this chapter continue to apply after classification has been granted.

The granting authority, upon request of an assessor, shall provide reasonable assistance to the assessor in making a determination whether the land continues to meet the qualifications of RCW 84.34.020 (1) or (3). The assistance shall be provided within thirty days of receipt of the request.

(2) Land may not be removed from classification because of:

(a) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or

(b) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.

(3) Within thirty days after such removal of all or a portion of the land from current use classification, the assessor shall notify the owner in writing, setting forth the reasons for the removal. The seller, transferor, or owner may appeal the removal to the county board of equalization in accordance with the provisions of RCW 84.40.038.

(4) Unless the removal is reversed on appeal, the assessor shall revalue the affected land with reference to its true and fair value on January 1st of the year of removal from classification. Both the assessed valuation before and after the removal of classification shall be listed and taxes shall be allocated according to that part of the year to which each assessed valuation applies. Except as provided in subsection (6) of this section, an additional tax, applicable interest, and penalty shall be imposed which shall be due and payable to the treasurer thirty days after the owner is notified of the amount of the additional tax. As soon as possible, the assessor shall compute the amount of additional tax, applicable interest, and penalty and the treasurer shall mail notice to the owner of the amount thereof and the date on which payment is due. The amount of the additional tax, applicable interest, and penalty shall be determined as follows:

(a) The amount of additional tax shall be equal to the difference between the property tax paid as "open space land," "farm and agricultural land," or "timber land" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified;

(b) The amount of applicable interest shall be equal to the interest upon the amounts of the additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the land had been assessed at a value without regard to this chapter;

(c) The amount of the penalty shall be as provided in RCW 84.34.080. The penalty shall not be imposed if the removal satisfies the conditions of RCW 84.34.070.

(5) Additional tax, applicable interest, and penalty, shall become a lien on the land which shall attach at the time the land is removed from classification under this chapter and shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation or responsibility to or with which the land may become charged or liable. This lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050. Any additional tax unpaid on its due date shall thereupon become delinquent. From the

date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes.

(6) The additional tax, applicable interest, and penalty specified in subsection (4) of this section shall not be imposed if the removal of classification pursuant to subsection (1) of this section resulted solely from:

(a) Transfer to a government entity in exchange for other land located within the state of Washington;

(b)(i) A taking through the exercise of the power of eminent domain, or (ii) sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power, said entity having manifested its intent in writing or by other official action;

(c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by virtue of the act of the landowner changing the use of the property;

(d) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of the land;

(e) Transfer of land to a church when the land would qualify for exemption pursuant to RCW 84.36.020;

(f) Acquisition of property interests by state agencies or agencies or organizations qualified under RCW 84.34.210 and 64.04.130 for the purposes enumerated in those sections. At such time as these property interests are not used for the purposes enumerated in RCW 84.34.210 and 64.04.130 the additional tax specified in subsection (4) of this section shall be imposed;

(g) Removal of land classified as farm and agricultural land under RCW 84.34.020(2)(e);

(h) Removal of land from classification after enactment of a statutory exemption that qualifies the land for exemption and receipt of notice from the owner to remove the land from classification;

(i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(j) The creation, sale, or transfer of a ((~~fee interest or a~~)) conservation easement ((~~for the riparian open space program~~)) of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species under RCW 76.09.040; or

(k) The sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in the land if the land has been assessed and valued as classified forest land, designated as forest land under chapter 84.33 RCW, or classified under this chapter continuously since 1993. The date of death shown on a death certificate is the date used for the purposes of this subsection (6)(k).

Sec. 4. RCW 84.33.145 and 2001 c 249 s 4 are each amended to read as follows:

(1) If no later than thirty days after removal of designation the owner applies for classification under RCW 84.34.020 (1), (2), or (3), then the designated forest land shall not be considered removed from designation for purposes of the compensating tax under RCW 84.33.140 until the application for current use classification under chapter 84.34 RCW is denied or the property is removed from classification under RCW 84.34.108. Upon removal of classification under RCW 84.34.108, the amount of compensating tax due under this chapter shall be equal to:

(a) The difference, if any, between the amount of tax last levied on the land as designated forest land and an amount equal to the new assessed valuation of the land when removed from classification under RCW 84.34.108 multiplied by the dollar rate of the last levy extended against the land, multiplied by

(b) A number equal to:

(i) The number of years the land was designated under this chapter, if the total number of years the land was designated under this chapter and classified under chapter 84.34 RCW is less than ten; or

(ii) Ten minus the number of years the land was classified under chapter 84.34 RCW, if the total number of years the land was designated under this chapter and classified under chapter 84.34 RCW is at least ten.

(2) Nothing in this section authorizes the continued designation under this chapter or defers or reduces the compensating tax imposed upon forest land not transferred to classification under subsection (1) of this section which does not meet the definition of forest land under RCW 84.33.035. Nothing in this section affects the additional tax imposed under RCW 84.34.108.

(3) In a county with a population of more than ((~~one million~~)) six hundred thousand inhabitants, no amount of compensating tax is due under this section if the removal from classification under RCW 84.34.108 results from a transfer of property described in RCW 84.34.108(6).

Sec. 5. RCW 76.09.020 and 2003 c 311 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) "Adaptive management" means reliance on scientific methods to test the results of actions taken so that the management and related policy can be changed promptly and appropriately.

(2) "Appeals board" means the forest practices appeals board created by RCW 76.09.210.

(3) "Aquatic resources" includes water quality, salmon, other species of the vertebrate classes Cephalaspidomorphi and Osteichthyes identified in the forests and fish report, the Columbia torrent salamander *(Rhyacotriton kezeri)*, the Cascade torrent salamander *(Rhyacotriton cascadae)*, the Olympic torrent salamander *(Rhyacotriton olympian)*, the Dunn's salamander *(Plethodon dunni)*, the Van Dyke's salamander *(Plethodon vandyke)*, the tailed frog *(Ascaphus truei)*, and their respective habitats.

(4) "Commissioner" means the commissioner of public lands.

(5) "Contiguous" means land adjoining or touching by common corner or otherwise. Land having common ownership divided by a road or other right-of-way shall be considered contiguous.

(6) "Conversion to a use other than commercial timber operation" means a bona fide conversion to an active use which is incompatible with timber growing and as may be defined by forest practices rules.

(7) "Department" means the department of natural resources.

(8) "Fish passage barrier" means any artificial instream structure that impedes the free passage of fish.

(9) "Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing. Forest land does not include agricultural land that is or was enrolled in the conservation reserve enhancement program by contract if such agricultural land was historically used for agricultural purposes and the landowner intends to continue to use the land for agricultural purposes in the future. As it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, the term "forest land" excludes:

(a) Residential home sites, which may include up to five acres; and

(b) Cropfields, orchards, vineyards, pastures, feedlots, fish pens, and the land on which appurtenances necessary to the production,

preparation, or sale of crops, fruit, dairy products, fish, and livestock exist.

(10) "Forest landowner" means any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner. However, any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest landowner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

(11) "Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

(a) Road and trail construction;

(b) Harvesting, final and intermediate;

(c) Precommercial thinning;

(d) Reforestation;

(e) Fertilization;

(f) Prevention and suppression of diseases and insects;

(g) Salvage of trees; and

(h) Brush control.

"Forest practice" shall not include preparatory work such as tree marking, surveying and road flagging, and removal or harvesting of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber, or public resources.

(12) "Forest practices rules" means any rules adopted pursuant to RCW 76.09.040.

(13) "Forest road," as it applies to the operation of the road maintenance and abandonment plan element of the forest practices rules on small forest landowners, means a road or road segment that crosses land that meets the definition of forest land, but excludes residential access roads.

(14) "Forest trees" does not include hardwood trees cultivated by agricultural methods in growing cycles shorter than fifteen years if the trees were planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees. "Forest trees" includes Christmas trees, but does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(15) "Forests and fish report" means the forests and fish report to the board dated April 29, 1999.

(16) "Application" means the application required pursuant to RCW 76.09.050.

(17) "Operator" means any person engaging in forest practices except an employee with wages as his or her sole compensation.

(18) "Person" means any individual, partnership, private, public, or municipal corporation, county, the department or other state or local governmental entity, or association of individuals of whatever nature.

(19) "Public resources" means water, fish and wildlife, and in addition shall mean capital improvements of the state or its political subdivisions.

(20) "Small forest landowner" has the same meaning as defined in RCW 76.09.450.

(21) "Timber" means forest trees, standing or down, of a commercial species, including Christmas trees. However, "timber" does not include Christmas trees that are cultivated by agricultural methods, as that term is defined in RCW 84.33.035.

(22) "Timber owner" means any person having all or any part of the legal interest in timber. Where such timber is subject to a contract of sale, "timber owner" shall mean the contract purchaser.

(23) "Board" means the forest practices board created in RCW 76.09.030.

(24) "Unconfined ((~~avulsing~~)) channel migration zone" means the area within which the active channel of an unconfined ((~~avulsing~~)) stream is prone to move and where the movement would result in a potential near-term loss of riparian forest adjacent to the stream. Sizeable islands with productive timber may exist within the zone.

(25) "Unconfined ((~~avulsing~~)) stream" means generally fifth order or larger waters that experience abrupt shifts in channel location, creating a complex floodplain characterized by extensive gravel bars, disturbance species of vegetation of variable age, numerous side channels, wall-based channels, oxbow lakes, and wetland complexes. Many of these streams have dikes and levees that may temporarily or permanently restrict channel movement.

NEW SECTION. Sec. 6. (1) The legislature finds that the revenue generated from state forest lands is a vital component of the operating budget in many rural counties. The dependence on a natural resource- based economy is especially underscored in counties with lower population levels and large holdings of public land. The high cost of compliance with the federal endangered species act on state forest lands within these smaller counties is disproportionately burdensome when compared to their total county budgets.

(2) The intent of this act is to provide sustainable revenue to smaller counties that are heavily dependent on state forest land revenues while promoting long-term protection, conservation, and recovery of marbled murrelets and northern spotted owls. This act provides the necessary tools for the state to maintain long-term working forests by replacing state forest lands with endangered species-based harvest encumbrances with productive, working forest lands.

Sec. 7. RCW 79.22.060 and 2003 c 334 s 221 are each amended to read as follows:

(1) With the approval of the board, the department may directly transfer or dispose of state forest lands without public auction, if ((~~such~~)) the lands:

(a) Consist of ten contiguous acres or less((~~, or~~));

(b) Have a value of twenty-five thousand dollars or less; or

(c) Are located in a county with a population of twenty-five thousand or less and are encumbered with timber harvest deferrals, associated with wildlife species listed under the federal endangered species act, greater than thirty years in length. ((~~Such~~))

(2) Disposal under this section may only occur in the following circumstances:

(a) Transfers in lieu of condemnation; ((~~and~~))

(b) Transfers to resolve trespass and property ownership disputes; or

(c) In counties with a population of twenty-five thousand or less, transfers to public agencies.

(((~~(2)~~))) (3) Real property to be transferred or disposed of under this section shall be transferred or disposed of only after appraisal and for at least fair market value, and only if ((~~such~~)) the transaction is in the best interest of the state or affected trust. Valuable materials attached to lands transferred to public agencies under subsection (2)(c) of this section must be appraised at the fair market value without consideration of management or regulatory encumbrances associated with wildlife species listed under the federal endangered species act.

((~~(3)~~)) (4) The proceeds from real property transferred or disposed of under this section shall be deposited into the park land trust revolving fund and be solely used to buy replacement land within the same county as the property transferred or disposed. In counties with a population of twenty-five thousand or less, the portion of the proceeds associated with valuable materials on the transferred land must be distributed as provided in RCW 79.64.110.

Sec. 8. RCW 79.64.110 and 2007 c 503 s 1 are each amended to read as follows:

Any moneys derived from the lease of state forest lands or from the sale of valuable materials, oils, gases, coal, minerals, or fossils from those lands, or the appraised value of these resources when transferred to a public agency under RCW 79.22.060, must be distributed as follows:

(1) State forest lands acquired through RCW 79.22.040 or by exchange for lands acquired through RCW 79.22.040:

(a) The expense incurred by the state for administration, reforestation, and protection, not to exceed twenty-five percent, which rate of percentage shall be determined by the board, must be returned to the forest development account in the state general fund.

(b) Any balance remaining must be paid to the county in which the land is located to be paid, distributed, and prorated, except as otherwise provided in this section, to the various funds in the same manner as general taxes are paid and distributed during the year of payment.

(c) Any balance remaining, paid to a county with a population of less than sixteen thousand, must first be applied to the reduction of any indebtedness existing in the current expense fund of the county during the year of payment.

(d) With regard to moneys remaining under this subsection (1), within seven working days of receipt of these moneys, the department shall certify to the state treasurer the amounts to be distributed to the counties. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date.

(2) State forest lands acquired through RCW 79.22.010 or by exchange for lands acquired through RCW 79.22.010, except as provided in RCW 79.64.120:

(a) Fifty percent shall be placed in the forest development account.

(b) Fifty percent shall be prorated and distributed to the state general fund, to be dedicated for the benefit of the public schools, and the county in which the land is located according to the relative proportions of tax levies of all taxing districts in the county. The portion to be distributed to the state general fund shall be based on the regular school levy rate under RCW 84.52.065 and the levy rate for any maintenance and operation special school levies. With regard to the portion to be distributed to the counties, the department shall certify to the state treasurer the amounts to be distributed within seven working days of receipt of the money. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date. The money distributed to the county must be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.

(3) A school district may transfer amounts deposited in its debt service fund pursuant to this section into its capital projects fund as authorized in RCW 28A.320.330.

Sec. 9. RCW 43.30.385 and 2004 c 103 s 1 are each amended to read as follows:

(1) The park land trust revolving fund is to be utilized by the department for the purpose of acquiring real property, including all reasonable costs associated with these acquisitions, as a replacement for the property transferred to the state parks and recreation commission, as directed by the legislature in order to maintain the land base of the affected trusts or under RCW 79.22.060 and to receive voluntary contributions for the purpose of operating and maintaining public use and recreation facilities, including trails, managed by the department. Proceeds from transfers of real property to the state parks and recreation commission or other proceeds identified from transfers of real property as directed by the legislature shall be deposited in this fund. Disbursement from the park land trust revolving fund to acquire replacement property and for operating and maintaining public use and recreation facilities shall be on the authorization of the department. The proceeds from real property transferred or disposed under RCW 79.22.060 must be solely used to purchase replacement forest land, that must be actively managed as a working forest, within the same county as the property transferred or disposed. In order to maintain an effective expenditure and revenue control, the park land trust revolving fund is subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

(2) The department is authorized to solicit and receive voluntary contributions for the purpose of operating and maintaining public use and recreation facilities, including trails, managed by the department. The department may seek voluntary contributions from individuals and organizations for this purpose. Voluntary contributions will be deposited into the park land trust revolving fund and used solely for the purpose of public use and recreation facilities operations and maintenance. Voluntary contributions are not considered a fee for use of these facilities.

NEW SECTION. Sec. 10. (1) By October 31, 2010, the department of natural resources shall prepare a report to the appropriate committees of the legislature detailing the procedure and timeline, and estimating the costs, of full implementation of the intent of this act.

(2) The report required by this section must include a recommended process to transfer state forest lands encumbered by long-term endangered species-based harvest deferrals, associated with wildlife species listed under the federal endangered species act, through the trust land transfer program into a natural resource conservation area status. This element of the report must assume the following:

(a) Encumbered property would be transferred at a specified biennial rate designed to provide sustainable revenue to the impacted counties;

(b) The value of the land and timber would be bifurcated, with the timber value being distributed to the county as timber revenue, and the land value being utilized to purchase replacement working forest land within the affected county and placed in the appropriate trust designation; and

(c) The land and timber value of the parcels identified for transfer will be appraised at full market value, without consideration of the devaluing effect of harvest encumbrances associated with wildlife species listed under the federal endangered species act.

(3) This section expires June 30, 2011."

On page 1, line 1 of the title, after "space;" strike the remainder of the title and insert "amending RCW 76.09.040, 84.33.140, 84.34.108, 84.33.145, 76.09.020, 79.22.060, 79.64.110, and 43.30.385; creating new sections; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1484 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Van De Wege and Warnick spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1484, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1484, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

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

SECOND SUBSTITUTE HOUSE BILL NO. 1484, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 16, 2009

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2106 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec.** 1. A new section is added to chapter 74.13 RCW to read as follows:

The legislature declares that the safety and well-being of children and families is essential to the social and economic health of Washington. It is the duty of the state to provide children at risk of out-of-home placement and their families with reasonable opportunities to access supportive services that enhance their safety and well-being. The legislature directs the programmatic and administrative changes required in this act to be accomplished in conformance with this foregoing principle.

The legislature finds that research in the area of child safety and well-being supports the conclusion that a restructuring of the administration and delivery of child welfare services through the use of performance-based contracts can enhance safety and well-being, when done so in a careful, well-planned and collaborative manner.

The legislature intends to encourage broad participation by interested entities in the bidding process. The legislature directs that the department retain those positions necessary to provide child protective and investigative services and to administer performance-based contracts.

The legislature further intends that the programmatic and administrative changes contained in this act have the result of reducing racial disproportionality in the child welfare system and racial disparities in child outcomes.

The legislature, in creating the committee in section 8 of this act, is establishing the mechanism to design, in collaboration with the executive and judicial branches and all affected entities, the transition to performance-based contracts in the delivery of out-of- home care and case management services.

Sec. 2. RCW 74.13.020 and 1999 c 267 s 7 are each amended to read as follows:

((~~As used in Title 74 RCW, child welfare services shall be defined as public social services including adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:~~

~~(1) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;~~

~~(2) Protecting and caring for dependent or neglected children;~~

~~(3) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children with services designed to resolve such conflicts;~~

~~(4) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;~~

~~(5) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.~~

~~As used in this chapter, child means a person less than eighteen years of age.~~

~~The department's duty to provide services to homeless families with children is set forth in RCW 43.20A.790 and in appropriations provided by the legislature for implementation of the plan.~~))

For purposes of this chapter:

(1) "Case management" means the management of services delivered to children and families in the child welfare system, including permanency services, caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means a person less than eighteen years of age.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management,

and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

(6) "Department" means the department of social and health services.

(7) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(8) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(9) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(10) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(11) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(12) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or an Indian tribe under RCW 74.15.190, that has entered into a performance-based contract with the department to provide child welfare services.

NEW SECTION. Sec. 3. A new section is added to chapter 74.13 RCW to read as follows:

(1) No later than January 1, 2011, the department shall convert its current contracts with providers into performance-based contracts. In accomplishing this conversion, the department shall decrease the total number of contracts it uses to purchase services from providers.

(2) No later than July 1, 2012:

(a) In the demonstration sites selected under section 8(4)(a) of this act, child welfare services shall be provided by supervising agencies with whom the department has entered into performance-based contracts. Supervising agencies may enter into subcontracts with other licensed agencies; and

(b) Except as provided in subsection (4) of this section, and notwithstanding any law to the contrary, the department may not directly provide child welfare services to families and children provided child welfare services by supervising agencies in the demonstration sites selected under section 8(4)(a) of this act.

(3) No later than July 1, 2012, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under section 8(4)(a) of this act, the department is responsible for only the following:

(a) Monitoring the quality of services for which the department contracts under this chapter;

(b) Ensuring that the services are provided in accordance with federal law and the laws of this state, including the Indian child welfare act;

(c) Providing child protection functions and services, including intake and investigation of allegations of child abuse or neglect, emergency shelter care functions under RCW 13.34.050, and referrals to appropriate providers; and

(d) Issuing licenses pursuant to chapter 74.15 RCW.

(4) No later than July 1, 2012, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under section 8(4)(a) of this act, the department may provide child welfare services only in an emergency or as a provider of last resort. The department shall adopt rules describing the circumstances under which the department may provide those services. For purposes of this section, "provider of last resort" means the department is unable to contract with a private agency to provide child welfare services in a particular geographic area or, after entering into a contract with a private agency, either the contractor or the department terminates the contract.

(5) For purposes of this chapter, on and after September 1, 2010, performance-based contracts shall be structured to hold the supervising agencies accountable for achieving the following goals in order of importance: Child safety; child permanency, including reunification; and child well-being.

(6) A federally recognized tribe located in this state may enter into a performance-based contract with the department to provide child welfare services to Indian children whether or not they reside on a reservation.

NEW SECTION. Sec. 4. A new section is added to chapter 74.13 RCW to read as follows:

Pursuant to RCW 41.06.142(3), performance-based contracting under section 3 of this act is expressly mandated by the legislature and is not subject to the processes set forth in RCW 41.06.142 (1), (4), and (5).

A continuation or expansion of delivery of child welfare services under the provisions of section 10 of this act shall be considered expressly mandated by the legislature and not subject to the provisions of RCW 41.06.142 (1), (4), and (5).

NEW SECTION. Sec. 5. A new section is added to chapter 74.13 RCW to read as follows:

Children whose cases are managed by a supervising agency remain under the care and placement authority of the state.

NEW SECTION. Sec. 6. A new section is added to chapter 74.13 RCW to read as follows:

Performance-based contracts with private nonprofit entities who otherwise meet the definition of supervising agency shall receive primary preference. This section does not apply to Indian tribes.

NEW SECTION. **Sec.** 7. A new section is added to chapter 43.10 RCW to read as follows:

The office of the attorney general shall provide, or cause to be provided, legal services in only dependency or termination of parental rights matters to supervising agencies with whom the department of social and health services has entered into performance-based contracts to provide child welfare services as soon as the contracts become effective.

NEW SECTION. **Sec.** 8. A new section is added to chapter 74.13 RCW to read as follows:

(1)(a) The child welfare transformation design committee is established, with members as provided in this subsection.

(i) The governor or the governor's designee;

(ii) Four private agencies that, as of the effective date of this section, provide child welfare services to children and families referred to them by the department. Two agencies must be headquartered in western Washington and two must be headquartered in eastern Washington. Two agencies must have an annual budget of at least one million state-contracted dollars and two must have an annual budget of less than one million state-contracted dollars;

(iii) The assistant secretary of the children's administration in the department;

(iv) Two regional administrators in the children's administration selected by the assistant secretary, one from one of the department's administrative regions one or two, and one from one of the department's administrative regions three, four, five, or six;

(v) The administrator for the division of licensed resources in the children's administration;

(vi) Two nationally recognized experts in performance-based contracts;

(vii) The attorney general or the attorney general's designee;

(viii) A representative of the collective bargaining unit that represents the largest number of employees in the children's administration;

(ix) A representative from the office of the family and children's ombudsman;

(x) Four representatives from the Indian policy advisory committee convened by the department's office of Indian policy and support services;

(xi) Two currently elected or former superior court judges with significant experience in dependency matters, selected by the superior court judge's association;

(xii) One representative from partners for our children affiliated with the University of Washington school of social work;

(xiii) A member of the Washington state racial disproportionality advisory committee;

(xiv) A foster parent; and

(xv) A parent representative who has had personal experience with the dependency system.

(b) The president of the senate and the speaker of the house of representatives shall jointly appoint the members under (a)(ii), (xiv), and (xv) of this subsection.

(c) The representative from partners for our children shall convene the initial meeting of the committee no later than June 15, 2009.

(d) The cochairs of the committee shall be the assistant secretary for the children's administration and another member selected by a majority vote of those members present at the initial meeting.

(2) The committee shall establish a transition plan containing recommendations to the legislature and the governor consistent with this section for the provision of child welfare services by supervising agencies pursuant to section 3 of this act.

(3) The plan shall include the following:

(a) A model or framework for performance-based contracts to be used by the department that clearly defines:

(i) The target population;

(ii) The referral and exit criteria for the services;

(iii) The child welfare services including the use of evidence-based services and practices to be provided by contractors;

(iv) The roles and responsibilities of public and private agency workers in key case decisions;

(v) Contract performance and outcomes, including those related to eliminating racial disparities in child outcomes;

(vi) That supervising agencies will provide culturally competent service;

(vii) How to measure whether each contractor has met the goals listed in section 3(5) of this act; and

(viii) Incentives to meet performance outcomes;

(b) A method by which the department will substantially reduce its current number of contracts for child welfare services;

(c) A method or methods by which clients will access community- based services, how private supervising agencies will engage other services or form local service networks, develop subcontracts, and share information and supervision of children;

(d) Methods to address the effects of racial disproportionality, as identified in the 2008 Racial Disproportionality Advisory Committee Report published by the Washington state institute for public policy in June 2008;

(e) Methods for inclusion of the principles and requirements of the centennial accord executed in November 2001, executed between the state of Washington and federally recognized tribes in Washington state;

(f) Methods for assuring performance-based contracts adhere to the letter and intent of the federal Indian child welfare act;

(g) Contract monitoring and evaluation procedures that will ensure that children and families are receiving timely and quality services and that contract terms are being implemented;

(h) A method or methods by which to ensure that the children's administration has sufficiently trained and experienced staff to monitor and manage performance-based contracts;

(i) A process by which to expand the capacity of supervising and other private agencies to meet the service needs of children and families in a performance-based contractual arrangement;

(j) A method or methods by which supervising and other private agencies can expand services in underserved areas of the state;

(k) The appropriate amounts and procedures for the reimbursement of supervising agencies given the proposed services restructuring;

(l) A method by which to access and enhance existing data systems to include contract performance information;

(m) A financing arrangement for the contracts that examines:

(i) The use of case rates or performance-based fee-for-service contracts that include incentive payments or payment schedules that link reimbursement to outcomes; and

(ii) Ways to reduce a contractor's financial risk that could jeopardize the solvency of the contractor, including consideration of the use of a risk-reward corridor that limits risk of loss and potential profits or the establishment of a statewide risk pool;

(n) A description of how the transition will impact the state's ability to obtain federal funding and examine options to further maximize federal funding opportunities and increased flexibility;

(o) A review of whether current administrative staffing levels in the regions should be continued when the majority of child welfare services are being provided by supervising agencies;

(p) A description of the costs of the transition, the initial start-up costs and the mechanisms to periodically assess the overall adequacy of funds and the fiscal impact of the changes, and the feasibility of the plan and the impact of the plan on department employees during the transition; and

(q) Identification of any statutory and regulatory revisions necessary to accomplish the transition.

(4)(a) The committee, with the assistance of the department, shall select two demonstration sites within which to implement this act. One site must be located on the eastern side of the state. The other site must be located on the western side of the state. Neither site must be wholly located in any of the department's administrative regions.

(b) The committee shall develop two sets of performance outcomes to be included in the performance-based contracts the department enters into with supervising agencies. The first set of outcomes shall be used for those cases transferred to a supervising agency over time. The second set of outcomes shall be used for new entrants to the child welfare system.

(c) The committee shall also identify methods for ensuring that comparison of performance between supervising agencies and the existing service delivery system takes into account the variation in the characteristics of the populations being served as well as historical trends in outcomes for those populations.

(5) The committee shall determine the appropriate size of the child and family populations to be provided services under performance-based contracts with supervising agencies. The committee shall also identify the time frame within which cases will be transferred to supervising agencies. The performance-based contracts entered into with supervising agencies shall encompass the provision of child welfare services to enough children and families in each demonstration site to allow for the assessment of whether there are meaningful differences, to be defined by the committee, between the outcomes achieved in the demonstration sites and the comparison sites or populations. To ensure adequate statistical power to assess these differences, the populations served shall be large enough to provide a probability greater than seventy percent that meaningful difference will be detected and a ninety-five percent probability that observed differences are not due to chance alone.

(6) The committee shall also prepare as part of the plan a recommendation as to how to implement this act so that full implementation of this act is achieved no later than June 30, 2012.

(7) The committee shall prepare the plan to manage the delivery of child welfare services in a manner that achieves coordination of the services and programs that deliver primary prevention services.

(8) Beginning June 30, 2009, the committee shall report quarterly to the governor and the legislative children's oversight committee established in RCW 44.04.220. From June 30, 2012, until January 1, 2015, the committee need only report twice a year. The committee shall report on its progress in meeting its duties under subsections (2) and (3) of this section and on any other matters the committee or the legislative children's oversight committee or the governor deems appropriate. The portion of the plan required in subsection (6) of this section shall be due to the legislative children's oversight committee on or before June 1, 2010. The reports shall be in written form.

(9) The committee, by majority vote, may establish advisory committees as it deems necessary.

(10) All state executive branch agencies and the agencies with whom the department contracts for child welfare services shall cooperate with the committee and provide timely information as the chair or cochairs may request. Cooperation by the children's administration must include developing and scheduling training for supervising agencies to access data and information necessary to implement and monitor the contracts.

(11) It is expected that the administrative costs for the committee will be supported through private funds.

(12) Staff support for the committee shall be provided jointly by partners for our children and legislative staff.

(13) The committee is subject to chapters 42.30 (open public meetings act) and 42.52 (ethics in public service) RCW.

(14) This section expires July 1, 2015.

NEW SECTION. Sec. 9. A new section is added to chapter 74.13 RCW to read as follows:

(1) Based upon the recommendations of the child welfare transformation design committee, including the two sets of outcomes developed by the committee under section 8(4)(b) of this act, the Washington state institute for public policy is to conduct a review of measurable effects achieved by the supervising agencies and compare those measurable effects with the existing services offered by the state. The report on the measurable effects shall be provided to the governor and the legislature no later than April 1, 2015.

(2) No later than June 30, 2011, the Washington state institute for public policy shall provide the legislature and the governor an initial report on the department's conversion to the use of performance-based contracts as provided in section 3(1) of this act. No later than June 30, 2012, the Washington state institute for public policy shall provide the governor and the legislature with a second report on the department's conversion of its contracts to performance-based contracts.

(3) The department shall respond to the Washington institute for public policy's request for data and other information with which to complete these reports in a timely manner.

NEW SECTION. Sec. 10. A new section is added to chapter 74.13 RCW to read as follows:

Not later than June 1, 2015, the governor shall, based on the report by the Washington state institute for public policy, determine whether to expand this act to the remainder of the state or terminate this act. The governor shall inform the legislature of his or her decision within seven days of the decision. The department shall, regardless of the decision of the governor regarding the delivery of child welfare services, continue to purchase services through the use of performance-based contracts.

NEW SECTION. Sec. 11. The department of social and health services, the office of financial management, and the caseload forecast council shall develop a proposal for submission to the legislature and the governor for the reinvestment of savings, including savings in reduced foster care caseloads, into evidence-based prevention and intervention programs designed to prevent the need for or reduce the duration of foster care placements. The proposal must be submitted to the legislature and the governor by November 30, 2010, and shall include sufficient detail regarding accounting, budgeting, and allocation or other procedures for legislative consideration and approval.

Sec. 12. RCW 74.15.010 and 1995 c 302 s 2 are each amended to read as follows:

The purpose of chapter 74.15 RCW and RCW 74.13.031 is:

(1) To safeguard the health, safety, and well-being of children, expectant mothers and developmentally disabled persons receiving care away from their own homes, which is paramount over the right of any person to provide care;

(2) To strengthen and encourage family unity and to sustain parental rights and responsibilities to the end that foster care is

provided only when a child's family, through the use of all available resources, is unable to provide necessary care;

(3) To promote the development of a sufficient number and variety of adequate ((~~child-care~~)) foster family homes and maternity-care facilities, both public and private, through the cooperative efforts of public and ((~~voluntary~~)) supervising agencies and related groups;

(4) To provide consultation to agencies caring for children, expectant mothers or developmentally disabled persons in order to help them to improve their methods of and facilities for care;

(5) To license agencies as defined in RCW 74.15.020 and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all agencies caring for children, expectant mothers and developmentally disabled persons.

Sec. 13. RCW 74.15.020 and 2007 c 412 s 1 are each amended to read as follows:

For the purpose of this chapter and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

(1) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or persons with developmental disabilities for services rendered:

(a) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(b) "Community facility" means a group care facility operated for the care of juveniles committed to the department under RCW 13.40.185. A county detention facility that houses juveniles committed to the department under RCW 13.40.185 pursuant to a contract with the department is not a community facility;

(c) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036;

(d) "Emergency respite center" is an agency that may be commonly known as a crisis nursery, that provides emergency and crisis care for up to seventy-two hours to children who have been admitted by their parents or guardians to prevent abuse or neglect. Emergency respite centers may operate for up to twenty-four hours a day, and for up to seven days a week. Emergency respite centers may provide care for children ages birth through seventeen, and for persons eighteen through twenty with developmental disabilities who are admitted with a sibling or siblings through age seventeen. Emergency respite centers may not substitute for crisis residential centers or HOPE centers, or any other services defined under this section, and may not substitute for services which are required under chapter 13.32A or 13.34 RCW;

(e) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

(f) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(g) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days;

(h) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(i) "Responsible living skills program" means an agency licensed by the secretary that provides residential and transitional living services to persons ages sixteen to eighteen who are dependent under chapter 13.34 RCW and who have been unable to live in his or her legally authorized residence and, as a result, the minor lived outdoors or in another unsafe location not intended for occupancy by the minor. Dependent minors ages fourteen and fifteen may be eligible if no other placement alternative is available and the department approves the placement;

(j) "Service provider" means the entity that operates a community facility.

(2) "Agency" shall not include the following:

(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated;

(v) Relatives, as named in (i), (ii), (iii), or (iv) of this subsection (2)(a), of any half sibling of the child; or

(vi) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the parent and person providing care on a twenty-four-hour basis have agreed to the placement in writing and the state is not providing any payment for the care;

(d) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors or persons who have the care of an exchange student in their home;

(e) A person, partnership, corporation, or other entity that provides placement or similar services to international children who have entered the country by obtaining visas that meet the criteria for medical care as established by the United States citizenship and immigration ((~~and naturalization~~)) services, or persons who have the care of such an international child in their home;

(f) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(g) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

(h) Licensed physicians or lawyers;

(i) Facilities approved and certified under chapter 71A.22 RCW;

(j) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(k) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(l) An agency operated by any unit of local, state, or federal government or an agency licensed by an Indian tribe pursuant to RCW 74.15.190;

(m) A maximum or medium security program for juvenile offenders operated by or under contract with the department;

(n) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.

(3) "Department" means the state department of social and health services.

(4) ((~~"Family child care licensee" means a person who: (a) Provides regularly scheduled care for a child or children in the home of the provider for periods of less than twenty-four hours or, if necessary due to the nature of the parent's work, for periods equal to or greater than twenty-four hours; (b) does not receive child care subsidies; and (c) is licensed by the state under RCW 74.15.030.~~

~~(5)~~)) "Juvenile" means a person under the age of twenty-one who has been sentenced to a term of confinement under the supervision of the department under RCW 13.40.185.

(5) "Performance-based contracts" or "contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts may also include provisions that link the performance of the contractor to the level and timing of the reimbursement.

(6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(8) "Secretary" means the secretary of social and health services.

(9) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(10) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has entered into a performance-based contract with the department to provide child welfare services.

(11) "Transitional living services" means at a minimum, to the extent funds are available, the following:

(a) Educational services, including basic literacy and computational skills training, either in local alternative or public high schools or in a high school equivalency program that leads to obtaining a high school equivalency degree;

(b) Assistance and counseling related to obtaining vocational training or higher education, job readiness, job search assistance, and placement programs;

(c) Counseling and instruction in life skills such as money management, home management, consumer skills, parenting, health care, access to community resources, and transportation and housing options;

(d) Individual and group counseling; and

(e) Establishing networks with federal agencies and state and local organizations such as the United States department of labor, employment and training administration programs including the ((~~job training partnership~~)) workforce investment act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

Sec. 14. RCW 74.15.030 and 2007 c 387 s 5 and 2007 c 17 s 14 are each reenacted and amended to read as follows:

The secretary shall have the power and it shall be the secretary's duty:

(1) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or structure of the agencies to be licensed ((~~hereunder~~)) under this chapter, or because of any other relevant factor ((~~relevant thereto~~));

(2) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) Obtaining background information and any out-of-state equivalent, to determine whether the applicant or service provider is disqualified and to determine the character, competence, and suitability of an agency, the agency's employees, volunteers, and other persons associated with an agency;

(c) Conducting background checks for those who will or may have unsupervised access to children, expectant mothers, or individuals with a developmental disability;

(d) Obtaining child protective services information or records maintained in the department's ((~~case management~~)) information technology system. ((~~No~~)) Unfounded allegations of child abuse or neglect as defined in RCW 26.44.020 ((~~may~~)) shall be disclosed to ((~~a child-placing agency, private adoption agency, or any other provider licensed~~)) supervising agencies under this chapter;

(e) Submitting a fingerprint-based background check through the Washington state patrol under chapter 10.97 RCW and through the federal bureau of investigation for:

(i) Agencies and their staff, volunteers, students, and interns when the agency is seeking license or relicense;

(ii) Foster care and adoption placements; and

(iii) Any adult living in a home where a child may be placed;

(f) If any adult living in the home has not resided in the state of Washington for the preceding five years, the department shall review any child abuse and neglect registries maintained by any state where the adult has resided over the preceding five years;

(g) The cost of fingerprint background check fees will be paid as required in RCW 43.43.837;

(h) National and state background information must be used solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children or expectant mothers;

(i) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;

(j) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;

(k) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;

(l) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13.031; and

(m) The maintenance of records pertaining to the admission, progress, health and discharge of persons served;

(3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and developmentally disabled persons. However, if a child is placed with a relative under RCW 13.34.065 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement;

(4) On reports of alleged child abuse and neglect, to investigate agencies in accordance with chapter 26.44 RCW, including child day-care centers and family day-care homes, to determine whether the alleged abuse or neglect has occurred, and whether child protective services or referral to a law enforcement agency is appropriate;

(5) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(6) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13.031 and to require regular reports from each licensee;

(7) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(8) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation with affected groups for child day-care requirements and with the children's services advisory committee for requirements for other agencies; and

(9) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons.

Sec. 15. RCW 74.15.050 and 1995 c 369 s 62 are each amended to read as follows:

The chief of the Washington state patrol, through the director of fire protection, shall have the power and it shall be his or her duty:

(1) In consultation with the children's services advisory committee and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt recognized minimum standard requirements pertaining to each category of agency established pursuant to chapter 74.15 RCW and RCW 74.13.031, except foster-family homes and child-placing agencies, necessary to protect all persons residing therein from fire hazards;

(2) To make or cause to be made such inspections and investigations of agencies, other than foster-family homes or child-placing agencies, as he or she deems necessary;

(3) To make a periodic review of requirements under RCW 74.15.030(7) and to adopt necessary changes after consultation as required in subsection (1) of this section;

(4) To issue to applicants for licenses hereunder, other than foster-family homes or child-placing agencies, who comply with the requirements, a certificate of compliance, a copy of which shall be presented to the department ((~~of social and health services~~)) before a license shall be issued, except that ((~~a provisional~~)) an initial license may be issued as provided in RCW 74.15.120.

Sec. 16. RCW 74.15.100 and 2006 c 265 s 403 are each amended to read as follows:

Each agency or supervising agency shall make application for a license or renewal of license to the department ((~~of social and health services~~)) on forms prescribed by the department. A licensed agency having foster-family homes under its supervision may make application for a license on behalf of any such foster-family home. Such a foster home license shall cease to be valid when the home is no longer under the supervision of that agency. Upon receipt of such application, the department shall either grant or deny a license within ninety days unless the application is for licensure as a foster-family home, in which case RCW 74.15.040 shall govern. A license shall be granted if the agency meets the minimum requirements set forth in chapter 74.15 RCW and RCW 74.13.031 and the departmental requirements consistent herewith, except that an initial license may be issued as provided in RCW 74.15.120. Licenses provided for in chapter 74.15 RCW and RCW 74.13.031 shall be issued for a period of three years. The licensee, however, shall advise the secretary of any material change in circumstances which might constitute grounds for reclassification of license as to category. The license issued under this chapter is not transferable and applies only to the licensee and the location stated in the application. For licensed foster-family homes having an acceptable history of child care, the license may remain in effect for two weeks after a move, except that this will apply only if the family remains intact.

Sec. 17. RCW 26.44.020 and 2007 c 220 s 1 are each amended to read as follows:

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

(1) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care

to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(4) "Child protective services section" means the child protective services section of the department.

(5) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(6) "Court" means the superior court of the state of Washington, juvenile department.

(7) "Department" means the state department of social and health services.

(8) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

(9) "Inconclusive" means the determination following an investigation by the department, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

(10) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

(11) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(12) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(13) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

(14) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(15) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner((~~: PROVIDED, HOWEVER, That~~)). A person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(16) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(17) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(18) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(19) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(20) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(21) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(22) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has entered into a performance-based contract with the department to provide child welfare services.

(23) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

Sec. 18. RCW 26.44.200 and 2002 c 134 s 4 are each amended to read as follows:

A law enforcement agency in the course of investigating: (1) An allegation under RCW 69.50.401(((~~(a)~~))) (1) and (2) (a) through (e) relating to manufacture of methamphetamine; or (2) an allegation under RCW 69.50.440 relating to possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, that discovers a child present at the site, shall contact the department immediately.

NEW SECTION. Sec. 19. A new section is added to chapter 26.44 RCW to read as follows:

Within existing resources, the department shall develop a curriculum designed to train child protective services staff in forensic techniques used for investigating allegations of child abuse or neglect.

Sec. 20. RCW 13.34.025 and 2007 c 410 s 2 are each amended to read as follows:

(1) The department ((~~of social and health services~~)) and supervising agencies shall develop methods for coordination of services to parents and children in child dependency cases. To the maximum extent possible under current funding levels, the department and supervising agencies must:

(a) Coordinate and integrate services to children and families, using service plans and activities that address the children's and families' multiple needs, including ensuring that siblings have regular visits with each other, as appropriate. Assessment criteria should screen for multiple needs;

(b) Develop treatment plans for the individual needs of the client in a manner that minimizes the number of contacts the client is required to make; and

(c) Access training for department and supervising agency staff to increase skills across disciplines to assess needs for mental health, substance abuse, developmental disabilities, and other areas.

(2) The department shall coordinate within the administrations of the department, and with contracted service providers including supervising agencies, to ensure that parents in dependency proceedings under this chapter receive priority access to remedial services recommended by the department or supervising agency in its social study or ordered by the court for the purpose of correcting any parental deficiencies identified in the dependency proceeding that are capable of being corrected in the foreseeable future. Services may also be provided to caregivers other than the parents as identified in RCW 13.34.138.

(a) For purposes of this chapter, remedial services are those services defined in the federal adoption and safe families act as time-limited family reunification services. Remedial services include individual, group, and family counseling; substance abuse treatment services; mental health services; assistance to address domestic violence; services designed to provide temporary child care and therapeutic services for families; and transportation to or from any of the above services and activities.

(b) The department shall provide funds for remedial services if the parent is unable to pay to the extent funding is appropriated in the operating budget or otherwise available to the department for such specific services. As a condition for receiving funded remedial services, the court may inquire into the parent's ability to pay for all or part of such services or may require that the parent make appropriate applications for funding to alternative funding sources for such services.

(c) If court-ordered remedial services are unavailable for any reason, including lack of funding, lack of services, or language barriers, the department or supervising agency shall promptly notify the court that the parent is unable to engage in the treatment due to the inability to access such services.

(d) This section does not create an entitlement to services and does not create judicial authority to order the provision of services except for the specific purpose of making reasonable efforts to remedy parental deficiencies identified in a dependency proceeding under this chapter.

Sec. 21. RCW 13.34.030 and 2003 c 227 s 2 are each amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child" and "juvenile" means any individual under the age of eighteen years.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of social and health services.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(((~~(5)~~))) (6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

(((~~(6)~~))) (7) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual.

(((~~(7)~~))) (8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding other than a proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" shall not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(((~~(8)~~))) (9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(((~~(9)~~))) (10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(((~~(10)~~))) (11) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, general assistance, poverty-related veterans' benefits, food stamps or food stamp benefits

transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty- five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(((~~(11)~~))) (12) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(((~~(12)~~))) (13) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing services, capable of preventing the need for out-of- home placement while protecting the child. Housing services may include, but are not limited to, referrals to federal, state, local, or private agencies or organizations, assistance with forms and applications, or financial subsidies for housing.

(((~~(13)~~))) (14) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(((~~(14)~~))) (15) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half- sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(((~~(15)~~))) (16) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(17) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 with whom the department has entered into a performance-based contract to provide child welfare services as defined in RCW 74.13.020.

Sec. 22. RCW 13.34.065 and 2008 c 267 s 2 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) If it is likely that the child will remain in shelter care longer than seventy-two hours, in those areas in which child welfare services are being provided by a supervising agency, the supervising agency shall assume case management responsibilities of the case. The department ((~~of social and health services~~)) or supervising agency shall submit a recommendation to the court as to the further need for shelter care in all cases in which ((~~it is the petitioner~~)) the child will remain in shelter care longer than the seventy-two hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order ((~~the~~

~~supervising agency or~~)) the department ((~~of social and health services~~)) to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

(e) Is the placement proposed by the department or supervising agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare act apply, and whether there is compliance with the Indian child welfare act, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department or supervising agency in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or supervising agency's case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative under (b) of this subsection or with another suitable person under (d) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

Sec. 23. RCW 13.34.067 and 2004 c 147 s 1 are each amended to read as follows:

(1)(a) Following shelter care and no later than thirty days prior to fact-finding, the department or supervising agency shall convene a case conference as required in the shelter care order to develop and specify in a written service agreement the expectations of both the department or supervising agency and the parent regarding voluntary services for the parent.

(b) The case conference shall include the parent, counsel for the parent, caseworker, counsel for the state, guardian ad litem, counsel for the child, and any other person agreed upon by the parties. Once the shelter care order is entered, the department or supervising agency is not required to provide additional notice of the case conference to any participants in the case conference.

(c) The written service agreement expectations must correlate with the court's findings at the shelter care hearing. The written service agreement must set forth specific services to be provided to the parent.

(d) The case conference agreement must be agreed to and signed by the parties. The court shall not consider the content of the discussions at the case conference at the time of the fact-finding hearing for the purposes of establishing that the child is a dependent child, and the court shall not consider any documents or written materials presented at the case conference but not incorporated into the case conference agreement, unless the documents or written materials were prepared for purposes other than or as a result of the case conference and are otherwise admissible under the rules of evidence.

(2) At any other stage in a dependency proceeding, the department or supervising agency, upon the parent's request, shall convene a case conference.

Sec. 24. RCW 13.34.094 and 2004 c 147 s 3 are each amended to read as follows:

The department, or supervising agency after the shelter care hearing, shall, within existing resources, provide to parents requesting or participating in a multidisciplinary team, family group conference, case conference, or prognostic staffing information that describes these processes prior to the processes being undertaken.

Sec. 25. RCW 13.34.096 and 2007 c 409 s 1 are each amended to read as follows:

The department ((~~of social and health services or other~~)) or supervising agency shall provide the child's foster parents, preadoptive parents, or other caregivers with notice of their right to be heard prior to each proceeding held with respect to the child in juvenile court under this chapter. The rights to notice and to be heard apply only to persons with whom a child has been placed by the department before shelter care or ((~~other~~)) supervising agency and who are providing care to the child at the time of the proceeding. This section shall not be construed to grant party status to any person solely on the basis of such notice and right to be heard.

Sec. 26. RCW 13.34.125 and 1999 c 173 s 2 are each amended to read as follows:

In those cases where an alleged father, birth parent, or parent has indicated his or her intention to make a voluntary adoption plan for the child and has agreed to the termination of his or her parental rights, the department or supervising agency shall follow the wishes of the alleged father, birth parent, or parent regarding the proposed adoptive placement of the child, if the court determines that the adoption is in the best interest of the child, and the prospective adoptive parents chosen by the alleged father, birth parent, or parent are properly qualified to adopt in compliance with the standards in this chapter and chapter 26.33 RCW. If the department or supervising agency has filed a termination petition, an alleged father's, birth parent's, or parent's preferences regarding the proposed adoptive placement of the child shall be given consideration.

Sec. 27. RCW 13.34.130 and 2007 c 413 s 6 and 2007 c 412 s 2 are each reenacted and amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose those services, including housing assistance, that least interfere with family autonomy and are adequate to protect the child.

(b) Order the child to be removed from his or her home and into the custody, control, and care of a relative ((~~or~~)), the department, or a ((~~licensed child placing~~)) supervising agency for supervision of the child's placement. The department or supervising agency ((~~supervising the child's placement~~)) has the authority to place the child, subject to review and approval by the court (i) with a relative as defined in RCW 74.15.020(2)(a), (ii) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW, or (iii) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is: (A) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; and (B) willing and available to care for the child.

(2) Placement of the child with a relative under this subsection shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety,

and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(3) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(6) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the department or supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent- child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

Sec. 28. RCW 13.34.136 and 2008 c 267 s 3 and 2008 c 152 s 2 are each reenacted and amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the department's or supervising agency's proposed permanency plan must be provided to the department or supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130(5), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the supervising agency or the department will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the department or supervising agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The department's or supervising agency's plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(ii) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The supervising agency or department shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. The court and the department or supervising agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court

finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department or supervising agency.

(v) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vi) The supervising agency ((~~charged with supervising a child in placement~~)) or department shall provide all reasonable services that are available within the department or supervising agency, or within the community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(5), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The department or supervising agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the earliest possible date. If the child has been in out-of-home care for fifteen of the most recent twenty-two months, the court shall require the department or supervising agency to file a petition seeking termination of parental rights in accordance with RCW 13.34.145(3)(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(6) The court shall consider the child's relationships with the child's siblings in accordance with RCW 13.34.130(3).

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

Sec. 29. RCW 13.34.138 and 2007 c 413 s 8 and 2007 c 410 s 1 are each reenacted and amended to read as follows:

(1) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145 (1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision by the supervising agency or department shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department or supervising agency must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department or supervising agency may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department or supervising agency must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department or supervising agency of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an entitlement to services or a duty on the part of the department or supervising agency to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the supervising agency or the department is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including

housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

(vii) Whether preference has been given to placement with the child's relatives;

(viii) Whether both in-state and, where appropriate, out-of-state placements have been considered;

(ix) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(x) Whether terms of visitation need to be modified;

(xi) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

(xii) Whether any additional court orders need to be made to move the case toward permanency; and

(xiii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with ((~~an~~)) the supervising agency's case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the department's or supervising agency's case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's ability to order housing assistance under RCW 13.34.130 and this section is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b) subject to the availability of funds appropriated for this specific purpose.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3).

Sec. 30. RCW 13.34.145 and 2008 c 152 s 3 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the department or supervising agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to department or supervising agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the department or supervising agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

At this hearing, the court shall order the department or supervising agency to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child. For purposes of this section, "good cause exception" includes but is not limited to the following: The child is being cared for by a relative; the department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home; or the department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(5), and 13.34.096.

(4) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the supervising agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision by the department or supervising agency shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the department or supervising agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

Sec. 31. RCW 13.34.155 and 2000 c 135 s 1 are each amended to read as follows:

(1) The court hearing the dependency petition may hear and determine issues related to chapter 26.10 RCW in a dependency proceeding as necessary to facilitate a permanency plan for the child or children as part of the dependency disposition order or a dependency review order or as otherwise necessary to implement a permanency plan of care for a child. The parents, guardians, or legal custodian of the child must agree, subject to court approval, to establish a permanent custody order. This agreed order may have the concurrence of the other parties to the dependency including the

supervising agency, the guardian ad litem of the child, and the child if age twelve or older, and must also be in the best interests of the child. If the petitioner for a custody order under chapter 26.10 RCW is not a party to the dependency proceeding, he or she must agree on the record or by the filing of a declaration to the entry of a custody order. Once an order is entered under chapter 26.10 RCW, and the dependency petition dismissed, the department or supervising agency shall not continue to supervise the placement.

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

(3) Any order entered in the dependency court establishing or modifying a permanent legal custody order under chapter 26.10 RCW shall also be filed in the chapter 26.10 RCW action by the prevailing party. Once filed, any order establishing or modifying permanent legal custody shall survive dismissal of the dependency proceeding.

Sec. 32. RCW 13.34.174 and 2000 c 122 s 23 are each amended to read as follows:

(1) The provisions of this section shall apply when a court orders a party to undergo an alcohol or substance abuse diagnostic investigation and evaluation.

(2) The facility conducting the investigation and evaluation shall make a written report to the court stating its findings and recommendations including family-based services or treatment when appropriate. If its findings and recommendations support treatment, it shall also recommend a treatment plan setting out:

(a) Type of treatment;

(b) Nature of treatment;

(c) Length of treatment;

(d) A treatment time schedule; and

(e) Approximate cost of the treatment.

The affected person shall be included in developing the appropriate treatment plan. The treatment plan must be signed by the treatment provider and the affected person. The initial written progress report based on the treatment plan shall be sent to the appropriate persons six weeks after initiation of treatment. Subsequent progress reports shall be provided after three months, six months, twelve months, and thereafter every six months if treatment exceeds twelve months. Reports are to be filed with the court in a timely manner. Close-out of the treatment record must include summary of pretreatment and posttreatment, with final outcome and disposition. The report shall also include recommendations for ongoing stability and decrease in destructive behavior.

Each report shall also be filed with the court and a copy given to the person evaluated and the person's counsel. A copy of the treatment plan shall also be given to the department's or supervising agency's caseworker and to the guardian ad litem. Any program for chemical dependency shall meet the program requirements contained in chapter 70.96A RCW.

(3) If the court has ordered treatment pursuant to a dependency proceeding it shall also require the treatment program to provide, in the reports required by subsection (2) of this section, status reports to the court, the department, the supervising ((~~child-placing~~)) agency ((~~if any~~)), and the person or person's counsel regarding the person's cooperation with the treatment plan proposed and the person's progress in treatment.

(4) If a person subject to this section fails or neglects to carry out and fulfill any term or condition of the treatment plan, the program or agency administering the treatment shall report such breach to the court, the department, the guardian ad litem, the supervising ((~~child-placing~~)) agency if any, and the person or person's counsel, within twenty-four hours, together with its recommendation. These reports shall be made as a declaration by the person who is personally responsible for providing the treatment.

(5) Nothing in this chapter may be construed as allowing the court to require the department to pay for the cost of any alcohol or substance abuse evaluation or treatment program.

Sec. 33. RCW 13.34.176 and 2000 c 122 s 24 are each amended to read as follows:

(1) The court, upon receiving a report under RCW 13.34.174(4) or at the department's or supervising agency's request, may schedule a show cause hearing to determine whether the person is in violation of the treatment conditions. All parties shall be given notice of the hearing. The court shall hold the hearing within ten days of the request for a hearing. At the hearing, testimony, declarations, reports, or other relevant information may be presented on the person's alleged failure to comply with the treatment plan and the person shall have the right to present similar information on his or her own behalf.

(2) If the court finds that there has been a violation of the treatment conditions it shall modify the dependency order, as necessary, to ensure the safety of the child. The modified order shall remain in effect until the party is in full compliance with the treatment requirements.

Sec. 34. RCW 13.34.180 and 2001 c 332 s 4 are each amended to read as follows:

(1) A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party, including the supervising agency, to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(8), and shall allege all of the following unless subsection (2) or (3) of this section applies:

(a) That the child has been found to be a dependent child;

(b) That the court has entered a dispositional order pursuant to RCW 13.34.130;

(c) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency;

(d) That the services ordered under RCW 13.34.136 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided;

(e) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been clearly offered or provided. In determining whether the conditions will be remedied the court may consider, but is not limited to, the following factors:

(i) Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documented multiple failed treatment attempts; or

(ii) Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time or for

periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documentation that there is no treatment that can render the parent capable of providing proper care for the child in the near future; and

(f) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home.

(2) In lieu of the allegations in subsection (1) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.

(3) In lieu of the allegations in subsection (1)(b) through (f) of this section, the petition may allege that the parent has been convicted of:

(a) Murder in the first degree, murder in the second degree, or homicide by abuse as defined in chapter 9A.32 RCW against another child of the parent;

(b) Manslaughter in the first degree or manslaughter in the second degree, as defined in chapter 9A.32 RCW against another child of the parent;

(c) Attempting, conspiring, or soliciting another to commit one or more of the crimes listed in (a) or (b) of this subsection; or

(d) Assault in the first or second degree, as defined in chapter 9A.36 RCW, against the surviving child or another child of the parent.

(4) Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:

"NOTICE

A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.

1. You have the right to a fact-finding hearing before a judge.

2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the ((~~department of social and health services~~)) supervising agency and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure) .

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing.

You may call (insert agency) for more information about your child. The agency's name and telephone number are (insert name and telephone number) ."

Sec. 35. RCW 13.34.210 and 2003 c 227 s 8 are each amended to read as follows:

If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department or ((~~to~~)) a ((~~licensed child-placing~~)) supervising agency willing to accept custody for the purpose of placing the child for adoption. If an adoptive home has not been identified, the department or supervising agency shall place the child in a licensed foster home, or take other suitable measures for the care and welfare of the child. The custodian shall have authority to consent to the adoption of the child consistent with chapter 26.33 RCW, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

If a child has not been adopted within six months after the date of the order and a guardianship of the child under RCW 13.34.231 or chapter 11.88 RCW, or a permanent custody order under chapter 26.10 RCW, has not been entered by the court, the court shall review the case every six months until a decree of adoption is entered except for those cases which are reviewed by a citizen review board under chapter 13.70 RCW. The supervising agency shall take reasonable steps to ensure that the child maintains relationships with siblings as provided in RCW 13.34.130(3) and shall report to the court the status and extent of such relationships.

Sec. 36. RCW 13.34.215 and 2008 c 267 s 1 are each amended to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c) The child has not achieved his or her permanency plan within three years of a final order of termination; and

(d) The child must be at least twelve years old at the time the petition is filed. Upon the child's motion for good cause shown, or on its own motion, the court may hear a petition filed by a child younger than twelve years old.

(2) A child seeking to petition under this section shall be provided counsel at no cost to the child.

(3) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

(4) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

(5) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department or the supervising agency, the child's attorney, and the child. The court shall also order the department or supervising agency to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(6) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(7) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department or supervising agency shall provide the court, and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

(8)(a) If the court conditionally grants the petition under subsection (6) of this section, the case will be continued for six months and a temporary order of reinstatement entered. During this period, the child shall be placed in the custody of the parent. The department or supervising agency shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

(9) After the child has been placed with the parent for six months, the court shall hold a hearing. If the placement with the parent has been successful, the court shall enter a final order of reinstatement of parental rights, which shall restore all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including those relating to custody, control, and support of the child. The court shall dismiss the dependency and direct the clerk's office to provide a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

(10) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

(11) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 or Title 26 RCW or costs of other services provided to a child for the time period from the date of termination of parental rights to the date parental rights are reinstated.

(12) A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child. This reinstatement is a recognition that the situation of the parent and child have changed since the time of the termination of parental rights and reunification is now appropriate.

(13) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(14) The state, the department, the supervising agency, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the state, the department, the supervising agency, or its employees concerning the original termination.

Sec. 37. RCW 13.34.230 and 1981 c 195 s 1 are each amended to read as follows:

Any party to a dependency proceeding, including the supervising agency, may file a petition in juvenile court requesting that guardianship be created as to a dependent child. The department ((~~of social and health services~~)) or supervising agency shall receive notice of any guardianship proceedings and have the right to intervene in the proceedings.

Sec. 38. RCW 13.34.233 and 2000 c 122 s 30 are each amended to read as follows:

(1) Any party may request the court under RCW 13.34.150 to modify or terminate a dependency guardianship order. Notice of any motion to modify or terminate the guardianship shall be served on all other parties, including any agency that was responsible for supervising the child's placement at the time the guardianship petition was filed. Notice in all cases shall be served upon the department. If the department or supervising agency was not previously a party to the guardianship proceeding, the department or supervising agency shall nevertheless have the right to: (a) Initiate a proceeding to modify or terminate a guardianship; and (b) intervene at any stage of such a proceeding.

(2) The guardianship may be modified or terminated upon the motion of any party ((~~or~~)), the department, or the supervising agency if the court finds by a preponderance of the evidence that there has been a substantial change of circumstances subsequent to the establishment of the guardianship and that it is in the child's best interest to modify or terminate the guardianship. The court shall hold a hearing on the motion before modifying or terminating a guardianship.

(3) Upon entry of an order terminating the guardianship, the dependency guardian shall not have any rights or responsibilities with respect to the child and shall not have legal standing to participate as a party in further dependency proceedings pertaining to the child. The court may allow the child's dependency guardian to attend dependency review proceedings pertaining to the child for the sole purpose of providing information about the child to the court.

(4) Upon entry of an order terminating the guardianship, the child shall remain dependent and the court shall either return the child to the child's parent or order the child into the custody, control, and care of the department or a ((~~licensed child-placing~~)) supervising agency for placement in a foster home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to such chapter. The court shall not place a child in the custody of the child's parent unless the court finds that reasons for removal as set forth in RCW 13.34.130 no longer exist and that such placement is in the child's best interest. The court shall thereafter conduct reviews as provided in RCW 13.34.138 and, where applicable, shall hold a permanency planning hearing in accordance with RCW 13.34.145.

Sec. 39. RCW 13.34.245 and 1997 c 386 s 18 are each amended to read as follows:

(1) Where any parent or Indian custodian voluntarily consents to foster care placement of an Indian child and a petition for dependency has not been filed regarding the child, such consent shall not be valid unless executed in writing before the court and filed with the court. The consent shall be accompanied by the written certification of the court that the terms and consequences of the consent were fully explained in detail to the parent or Indian custodian during the court proceeding and were fully understood by the parent or Indian custodian. The court shall also certify in writing either that the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that

the parent or Indian custodian understood. Any consent given prior to, or within ten days after, the birth of the Indian child shall not be valid.

(2) To obtain court validation of a voluntary consent to foster care placement, any person may file a petition for validation alleging that there is located or residing within the county an Indian child whose parent or Indian custodian wishes to voluntarily consent to foster care placement of the child and requesting that the court validate the consent as provided in this section. The petition shall contain the name, date of birth, and residence of the child, the names and residences of the consenting parent or Indian custodian, and the name and location of the Indian tribe in which the child is a member or eligible for membership. The petition shall state whether the placement preferences of 25 U.S.C. Sec. 1915 (b) or (c) will be followed. Reasonable attempts shall be made by the petitioner to ascertain and set forth in the petition the identity, location, and custodial status of any parent or Indian custodian who has not consented to foster care placement and why that parent or Indian custodian cannot assume custody of the child.

(3) Upon filing of the petition for validation, the clerk of the court shall schedule the petition for a hearing on the court validation of the voluntary consent no later than forty-eight hours after the petition has been filed, excluding Saturdays, Sundays, and holidays. Notification of time, date, location, and purpose of the validation hearing shall be provided as soon as possible to the consenting parent or Indian custodian, the department or ((~~other child-placing~~)) supervising agency which is to assume responsibility for the child's placement and care pursuant to the consent to foster care placement, and the Indian tribe in which the child is enrolled or eligible for enrollment as a member. If the identity and location of any nonconsenting parent or Indian custodian is known, reasonable attempts shall be made to notify the parent or Indian custodian of the consent to placement and the validation hearing. Notification under this subsection may be given by the most expedient means, including, but not limited to, mail, personal service, telephone, and telegraph.

(4) Any parent or Indian custodian may withdraw consent to a voluntary foster care placement, made under this section, at any time. Unless the Indian child has been taken in custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130, the Indian child shall be returned to the parent or Indian custodian upon withdrawal of consent to foster care placement of the child.

(5) Upon termination of the voluntary foster care placement and return of the child to the parent or Indian custodian, the department or ((~~other child-placing~~)) supervising agency which had assumed responsibility for the child's placement and care pursuant to the consent to foster care placement shall file with the court written notification of the child's return and shall also send such notification to the Indian tribe in which the child is enrolled or eligible for enrollment as a member and to any other party to the validation proceeding including any noncustodial parent.

Sec. 40. RCW 13.34.320 and 1999 c 188 s 2 are each amended to read as follows:

The department or supervising agency shall obtain the prior consent of a child's parent, legal guardian, or legal custodian before a dependent child is admitted into an inpatient mental health treatment facility. If the child's parent, legal guardian, or legal custodian is unavailable or does not agree with the proposed admission, the department or supervising agency shall request a hearing and provide notice to all interested parties to seek prior approval of the juvenile court before such admission. In the event that an emergent situation creating a risk of substantial harm to the health and welfare of a child in the custody of the department or supervising agency does not allow time for the department or supervising agency to obtain prior approval or to request a court hearing before consenting to the admission of the child into an inpatient mental health hospital, the department or supervising agency shall seek court approval by requesting that a hearing be set on the first available court date.

Sec. 41. RCW 13.34.330 and 1999 c 188 s 3 are each amended to read as follows:

A dependent child who is admitted to an inpatient mental health facility shall be placed in a facility, with available treatment space, that is closest to the family home, unless the department or supervising agency, in consultation with the admitting authority finds that admission in the facility closest to the child's home would jeopardize the health or safety of the child.

Sec. 42. RCW 13.34.340 and 2000 c 122 s 35 are each amended to read as follows:

For minors who cannot consent to the release of their records with the department or supervising agency because they are not old enough to consent to treatment, or, if old enough, lack the capacity to consent, or if the minor is receiving treatment involuntarily with a provider the department or supervising agency has authorized to provide mental health treatment under RCW 13.34.320, the department or supervising agency shall disclose, upon the treating physician's request, all relevant records, including the minor's passport as established under RCW 74.13.285, in the department's or supervising agency's possession that the treating physician determines contain information required for treatment of the minor. The treating physician shall maintain all records received from the department or supervising agency in a manner that distinguishes the records from any other records in the minor's file with the treating physician and the department or supervising agency records may not be disclosed by the treating physician to any other person or entity absent a court order except that, for medical purposes only, a treating physician may disclose the department or supervising agency records to another treating physician.

Sec. 43. RCW 13.34.350 and 2001 c 52 s 2 are each amended to read as follows:

In order to facilitate communication of information needed to serve the best interest of any child who is the subject of a dependency case filed under this chapter, the department ((~~of social and health services~~)) shall, consistent with state and federal law governing the release of confidential information, establish guidelines, and shall use those guidelines for the facilitation of communication of relevant information among divisions, providers, the courts, the family, caregivers, caseworkers, and others.

Sec. 44. RCW 13.34.370 and 2004 c 146 s 2 are each amended to read as follows:

The court may order expert evaluations of parties to obtain information regarding visitation issues or other issues in a case. These evaluations shall be performed by appointed evaluators who are mutually agreed upon by the court, the ((~~state~~)) supervising agency, the department, and the parents' counsel, and, if the child is to be evaluated, by the representative for the child. If no agreement can be reached, the court shall select the expert evaluator.

Sec. 45. RCW 13.34.380 and 2004 c 146 s 3 are each amended to read as follows:

The department ((~~of social and health services~~)) shall develop consistent policies and protocols, based on current relevant research, concerning visitation for dependent children to be implemented consistently throughout the state. The department shall develop the policies and protocols in consultation with researchers in the field,

community-based agencies, court-appointed special advocates, parents' representatives, and court representatives. The policies and protocols shall include, but not be limited to: The structure and quality of visitations; and training for department and supervising agency caseworkers, visitation supervisors, and foster parents related to visitation.

The policies and protocols shall be consistent with the provisions of this chapter and implementation of the policies and protocols shall be consistent with relevant orders of the court.

Sec. 46. RCW 13.34.385 and 2008 c 259 s 1 are each amended to read as follows:

(1) A relative of a dependent child may petition the juvenile court for reasonable visitation with the child if:

(a) The child has been found to be a dependent child under this chapter;

(b) The parental rights of both of the child's parents have been terminated;

(c) The child is in the custody of the department ((~~or~~)), another public ((~~or private~~)) agency, or a supervising agency; and

(d) The child has not been adopted and is not in a preadoptive home or other permanent placement at the time the petition for visitation is filed.

(2) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department ((~~or~~)), other public ((~~or private~~)) agency, or supervising agency having custody of the child, the child's attorney or guardian ad litem if applicable, and the child. The court shall also order the custodial agency to give prior notice of any hearing to the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(3) The juvenile court may grant the petition for visitation if it finds that the requirements of subsection (1) of this section have been met, and that unsupervised visitation between the child and the relative does not present a risk to the child's safety or well-being and that the visitation is in the best interests of the child. In determining the best interests of the child the court shall consider, but is not limited to, the following:

(a) The love, affection, and strength of the relationship between the child and the relative;

(b) The length and quality of the prior relationship between the child and the relative;

(c) Any criminal convictions for or founded history of abuse or neglect of a child by the relative;

(d) Whether the visitation will present a risk to the child's health, welfare, or safety;

(e) The child's reasonable preference, if the court considers the child to be of sufficient age to express a preference;

(f) Any other factor relevant to the child's best interest.

(4) The visitation order may be modified at any time upon a showing that the visitation poses a risk to the child's safety or well-being. The visitation order shall state that visitation will automatically terminate upon the child's placement in a preadoptive home, if the child is adopted, or if there is a subsequent founded abuse or neglect allegation against the relative.

(5) The granting of the petition under this section does not grant the relative the right to participate in the dependency action and does not grant any rights to the relative not otherwise specified in the visitation order.

(6) This section is retroactive and applies to any eligible dependent child at the time of the filing of the petition for visitation, regardless of the date parental rights were terminated.

(7) For the purpose of this section, "relative" means a relative as defined in RCW 74.15.020(2)(a), except parents.

(8) This section is intended to provide an additional procedure by which a relative may request visitation with a dependent child. It is not intended to impair or alter the ability a court currently has to order visitation with a relative under the dependency statutes.

Sec. 47. RCW 13.34.390 and 2005 c 504 s 303 are each amended to read as follows:

The department ((~~of social and health services~~)) and the department of health shall develop and expand comprehensive services for drug- affected and alcohol-affected mothers and infants. Subject to funds appropriated for this purpose, the expansion shall be in evidence- based, research-based, or consensus-based practices, ((~~as those terms are defined in section 603 of this act,~~)) and shall expand capacity in underserved regions of the state.

Sec. 48. RCW 13.34.400 and 2007 c 411 s 2 are each amended to read as follows:

In any proceeding under this chapter, if the department or supervising agency submits a report to the court in which the department is recommending a new placement or a change in placement, the department or supervising agency shall include the documents relevant to persons in the home in which a child will be placed and listed in subsections (1) through (5) of this section to the report. The department or supervising agency shall include only these relevant documents and shall not attach the entire history of the subject of the report.

(1) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to substance abuse treatment, mental health treatment, anger management classes, or domestic violence classes, the department or supervising agency shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the progress report or evaluation submitted by the provider, but may not include the entire history with the provider.

(2) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to visitation with a child, the department or supervising agency shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the most recent visitation report, a visitation report referencing a specific incident alleged in the report, or summary of the visitation prepared by the person who supervised the visitation. The documentation attached to the report shall not include the entire visitation history.

(3) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to the psychological status of a person, the department or supervising agency shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the progress report, evaluation, or summary submitted by the provider, but shall not include the entire history of the person.

(4) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to injuries to a child, the department or supervising agency shall attach a summary of the physician's report, prepared by the physician or the physician's designee, relating to the recommendation, opinion, or assertion by the department.

(5) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to a home study, licensing action, or background check information, the department or supervising agency shall attach the document or

documents upon which that recommendation, opinion, or assertion is based.

Sec. 49. RCW 74.13.010 and 1965 c 30 s 2 are each amended to read as follows:

The purpose of this chapter is to safeguard, protect, and contribute to the welfare of the children of the state, through a comprehensive and coordinated program of ((~~public~~)) child welfare services provided by both the department and supervising agencies providing for: Social services and facilities for children who require guidance, care, control, protection, treatment, or rehabilitation; setting of standards for social services and facilities for children; cooperation with public and voluntary agencies, organizations, and citizen groups in the development and coordination of programs and activities in behalf of children; and promotion of community conditions and resources that help parents to discharge their responsibilities for the care, development, and well-being of their children.

NEW SECTION. Sec. 50. A new section is added to chapter 74.13 RCW to read as follows:

The department's duty to provide services to homeless families with children is set forth in RCW 43.20A.790 and in appropriations provided by the legislature for implementation of the comprehensive plan for homeless families with children.

Sec. 51. RCW 74.13.031 and 2008 c 267 s 6 are each amended to read as follows:

((~~The department shall have the duty to provide child welfare services and shall:~~))

(1) The department and supervising agencies shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department and supervising agencies shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's and supervising agency's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) The department or supervising agencies shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) The department or supervising agencies shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well- being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. ((~~The policy for monitoring placements~~)) Under this section ((~~shall require that~~)) children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to- face visit each month.

(((~~(a)~~))) The department or supervising agencies shall conduct the monthly visits with children and caregivers ((~~required under this section unless the child's placement is being supervised under a contract between the department and a private agency accredited by a national child welfare accrediting entity, in which case the private agency shall, within existing resources, conduct the monthly visits with the child and with the child's caregiver according to the standards described in this subsection and shall provide the department with a written report of the visits within fifteen days of completing the visits.~~

~~(b) In cases where the monthly visits required under this subsection are being conducted by a private agency, the department shall conduct a face-to-face health and safety visit with the child at least once every ninety days~~)) to whom it is providing child welfare services.

(6) The department and supervising agencies shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95- 608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) The department and supervising agency shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) The department and supervising agency shall have authority to purchase care for children((~~; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department~~)).

(9) The department shall establish a children's services advisory committee with sufficient members representing supervising agencies which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10)(a) The department and supervising agencies shall have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

(b)(i) Beginning in 2006, the department has the authority to allow up to fifty youth reaching age eighteen to continue in foster care or group care as needed to participate in or complete a posthigh school academic or vocational program, and to receive necessary support and transition services.

(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen to remain in foster care or group care as provided in (b)(i) of this subsection.

(iii) A youth who remains eligible for such placement and services pursuant to department rules may continue in foster care or group care until the youth reaches his or her twenty-first birthday. Eligibility requirements shall include active enrollment in a posthigh school academic or vocational program and maintenance of a 2.0 grade point average.

(11) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(12) The department and supervising agencies shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department ((~~of social and health services~~)) under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(13) Within amounts appropriated for this specific purpose, the supervising agency or department shall provide preventive services to families with children that prevent or shorten the duration of an out- of-home placement.

(14) The department and supervising agencies shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty- one years of age who are or have been in foster care.

(15) The department and supervising agencies shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department ((~~is~~)) and supervising agencies are performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

Sec. 52. RCW 74.13.0311 and 2002 c 219 s 13 are each amended to read as follows:

The department or ((~~its contractors~~)) supervising agencies may provide child welfare services pursuant to a deferred prosecution plan ordered under chapter 10.05 RCW. Child welfare services provided under this chapter pursuant to a deferred prosecution order may not be construed to prohibit the department or supervising agencies from providing services or undertaking proceedings pursuant to chapter 13.34 or 26.44 RCW.

Sec. 53. RCW 74.13.032 and 1998 c 296 s 4 are each amended to read as follows:

(1) The department shall establish, ((~~by~~)) through performance-based contracts with private or public vendors, regional crisis residential centers with semi-secure facilities. These facilities shall be structured group care facilities licensed under rules adopted by the department and shall have an average of at least four adult staff members and in no event less than three adult staff members to every eight children.

(2) Within available funds appropriated for this purpose, the department shall establish, ((~~by~~)) through performance-based contracts with private or public vendors, regional crisis residential centers with secure facilities. These facilities shall be facilities licensed under rules adopted by the department. These centers may also include semi-secure facilities and to such extent shall be subject to subsection (1) of this section.

(3) The department shall, in addition to the facilities established under subsections (1) and (2) of this section, establish additional crisis residential centers pursuant to performance-based contracts with licensed private group care facilities.

(4) The staff at the facilities established under this section shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles that recognize the need for support and the varying circumstances that cause children to leave their families, and carry out the responsibilities stated in RCW 13.32A.090. The responsibilities stated in RCW 13.32A.090 may, in any of the centers, be carried out by the department.

(5) The secure facilities located within crisis residential centers shall be operated to conform with the definition in RCW 13.32A.030. The facilities shall have an average of no less than one adult staff member to every ten children. The staffing ratio shall continue to ensure the safety of the children.

(6) If a secure crisis residential center is located in or adjacent to a secure juvenile detention facility, the center shall be operated in a manner that prevents in-person contact between the residents of the center and the persons held in such facility.

Sec. 54. RCW 74.13.036 and 2003 c 207 s 2 are each amended to read as follows:

(1) The department ((~~of social and health services~~)) shall oversee implementation of chapter 13.34 RCW and chapter 13.32A RCW. The oversight shall be comprised of working with affected parts of the criminal justice and child care systems as well as with local government, legislative, and executive authorities to effectively carry out these chapters. The department shall work with all such entities to ensure that chapters 13.32A and 13.34 RCW are implemented in a uniform manner throughout the state.

(2) The department shall develop a plan and procedures, in cooperation with the statewide advisory committee, to insure the full implementation of the provisions of chapter 13.32A RCW. Such plan and procedures shall include but are not limited to:

(a) Procedures defining and delineating the role of the department and juvenile court with regard to the execution of the child in need of services placement process;

(b) Procedures for designating department or supervising agency staff responsible for family reconciliation services;

(c) Procedures assuring enforcement of contempt proceedings in accordance with RCW 13.32A.170 and 13.32A.250; and

(d) Procedures for the continued education of all individuals in the criminal juvenile justice and child care systems who are affected by chapter 13.32A RCW, as well as members of the legislative and executive branches of government.

There shall be uniform application of the procedures developed by the department and juvenile court personnel, to the extent practicable. Local and regional differences shall be taken into consideration in the development of procedures required under this subsection.

(3) In addition to its other oversight duties, the department shall:

(a) Identify and evaluate resource needs in each region of the state;

(b) Disseminate information collected as part of the oversight process to affected groups and the general public;

(c) Educate affected entities within the juvenile justice and child care systems, local government, and the legislative branch regarding the implementation of chapters 13.32A and 13.34 RCW;

(d) Review complaints concerning the services, policies, and procedures of those entities charged with implementing chapters 13.32A and 13.34 RCW; and

(e) Report any violations and misunderstandings regarding the implementation of chapters 13.32A and 13.34 RCW.

(4) The department shall provide an annual report to the legislature not later than December 1 of each year only when it has declined to accept custody of a child from a law enforcement agency or it has received a report of a child being released without placement. The report shall indicate the number of times it has declined to accept custody of a child from a law enforcement agency under chapter 13.32A RCW and the number of times it has received a report of a child being released without placement under RCW 13.32A.060(1)(c). The report shall include the dates, places, and reasons the department declined to accept custody and the dates and places children are released without placement.

Sec. 55. RCW 74.13.037 and 1997 c 146 s 9 are each amended to read as follows:

Within available funds appropriated for this purpose, the department shall establish, ((~~by~~)) through performance-based contracts with private vendors, transitional living programs for youth who are being assisted by the department in being emancipated as part of their permanency plan under chapter 13.34 RCW. These programs shall be licensed under rules adopted by the department.

Sec. 56. RCW 74.13.042 and 1995 c 311 s 14 are each amended to read as follows:

If the department or supervising agency is denied lawful access to records or information, or requested records or information is not provided in a timely manner, the department or supervising agency may petition the court for an order compelling disclosure.

(1) The petition shall be filed in the juvenile court for the county in which the record or information is located or the county in which the person who is the subject of the record or information resides. If the person who is the subject of the record or information is a party to or the subject of a pending proceeding under chapter 13.32A or 13.34 RCW, the petition shall be filed in such proceeding.

(2) Except as otherwise provided in this section, the persons from whom and about whom the record or information is sought shall be served with a summons and a petition at least seven calendar days prior to a hearing on the petition. The court may order disclosure upon ex parte application of the department or supervising agency, without prior notice to any person, if the court finds there is reason to believe access to the record or information is necessary to determine whether the child is in imminent danger and in need of immediate protection.

(3) The court shall grant the petition upon a showing that there is reason to believe that the record or information sought is necessary for the health, safety, or welfare of the child who is currently receiving child welfare services.

Sec. 57. RCW 74.13.045 and 1998 c 245 s 146 are each amended to read as follows:

The department shall develop and implement an informal, nonadversarial complaint resolution process to be used by clients of the department or supervising agency, foster parents, and other affected individuals who have complaints regarding a department policy or procedure, ((~~or~~)) the application of such a policy or procedure, or the performance of an entity that has entered into a performance-based contract with the department, related to programs administered under this chapter. The process shall not apply in circumstances where the complainant has the right under Title 13, 26, or 74 RCW to seek resolution of the complaint through judicial review or through an adjudicative proceeding.

Nothing in this section shall be construed to create substantive or procedural rights in any person. Participation in the complaint resolution process shall not entitle any person to an adjudicative proceeding under chapter 34.05 RCW or to superior court review. Participation in the process shall not affect the right of any person to seek other statutorily or constitutionally permitted remedies.

The department shall develop procedures to assure that clients and foster parents are informed of the availability of the complaint resolution process and how to access it. The department shall incorporate information regarding the complaint resolution process into the training for foster parents and department and supervising agency caseworkers.

The department shall compile complaint resolution data including the nature of the complaint and the outcome of the process.

Sec. 58. RCW 74.13.055 and 1998 c 245 s 147 are each amended to read as follows:

The department shall adopt rules pursuant to chapter 34.05 RCW which establish goals as to the maximum number of children who will remain in foster care for a period of longer than twenty-four months. The department shall also work cooperatively with ((~~the major private child care providers~~)) supervising agencies to assure that a partnership plan for utilizing the resources of the public and private sector in all matters pertaining to child welfare is developed and implemented.

Sec. 59. RCW 74.13.060 and 1971 ex.s. c 169 s 7 are each amended to read as follows:

(1) The secretary or his or her designees or delegatees shall be the custodian without compensation of such moneys and other funds of any person which may come into the possession of the secretary during the period such person is placed with the department ((~~of social and health services~~)) or an entity with which it has entered into a performance-based contract pursuant to chapter 74.13 RCW. As such custodian, the secretary shall have authority to disburse moneys from the person's funds for the following purposes only and subject to the following limitations:

(((~~(1) The secretary may disburse any of the funds belonging to such person~~)) (a) For such personal needs of such person as the secretary may deem proper and necessary.

(((~~(2) The secretary may apply such funds~~)) (b) Against the amount of public assistance otherwise payable to such person. This includes applying, as reimbursement, any benefits, payments, funds, or accrual paid to or on behalf of said person from any source against the amount of public assistance expended on behalf of said person during the period for which the benefits, payments, funds or accruals were paid.

(((~~(3)~~))) (2) All funds held by the secretary as custodian may be deposited in a single fund, the receipts and expenditures therefrom to be accurately accounted for by him or her on an individual basis. Whenever, the funds belonging to any one person exceed the sum of

five hundred dollars, the secretary may deposit said funds in a savings and loan association account on behalf of that particular person.

(((~~(4)~~))) (3) When the conditions of placement no longer exist and public assistance is no longer being provided for such person, upon a showing of legal competency and proper authority, the secretary shall deliver to such person, or the parent, person, or agency legally responsible for such person, all funds belonging to the person remaining in his or her possession as custodian, together with a full and final accounting of all receipts and expenditures made therefrom.

(((~~(5)~~))) (4) The appointment of a guardian for the estate of such person shall terminate the secretary's authority as custodian of said funds upon receipt by the secretary of a certified copy of letters of guardianship. Upon the guardian's request, the secretary shall immediately forward to such guardian any funds of such person remaining in the secretary's possession together with full and final accounting of all receipts and expenditures made therefrom.

Sec. 60. RCW 74.13.065 and 2002 c 52 s 8 are each amended to read as follows:

(1) The department((~~,~~)) or supervising agency ((~~responsible for supervising a child in out-of-home care,~~)) shall conduct a social study whenever a child is placed in out-of-home care under the supervision of the department or ((~~other~~)) supervising agency. The study shall be conducted prior to placement, or, if it is not feasible to conduct the study prior to placement due to the circumstances of the case, the study shall be conducted as soon as possible following placement.

(2) The social study shall include, but not be limited to, an assessment of the following factors:

(a) The physical and emotional strengths and needs of the child;

(b) Emotional bonds with siblings and the need to maintain regular sibling contacts;

(c) The proximity of the child's placement to the child's family to aid reunification;

(d) The possibility of placement with the child's relatives or extended family;

(e) The racial, ethnic, cultural, and religious background of the child;

(f) The least-restrictive, most family-like placement reasonably available and capable of meeting the child's needs; and

(g) Compliance with RCW 13.34.260 regarding parental preferences for placement of their children.

Sec. 61. RCW 74.13.075 and 1994 c 169 s 1 are each amended to read as follows:

(1) For the purposes of funds appropriated for the treatment of sexually aggressive youth, the term "sexually aggressive youth" means those juveniles who:

(a) Have been abused and have committed a sexually aggressive act or other violent act that is sexual in nature; and

(i) Are in the care and custody of the state or a federally recognized Indian tribe located within the state; or

(ii) Are the subject of a proceeding under chapter 13.34 RCW or a child welfare proceeding held before a tribal court located within the state; or

(b) Cannot be detained under the juvenile justice system due to being under age twelve and incompetent to stand trial for acts that could be prosecuted as sex offenses as defined by RCW 9.94A.030 if the juvenile was over twelve years of age, or competent to stand trial if under twelve years of age.

(2) In expending these funds, the department ((~~of social and health services~~)) shall establish in each region a case review committee to review all cases for which the funds are used. In determining whether to use these funds in a particular case, the committee shall consider:

(a) The age of the juvenile;

(b) The extent and type of abuse to which the juvenile has been subjected;

(c) The juvenile's past conduct;

(d) The benefits that can be expected from the treatment;

(e) The cost of the treatment; and

(f) The ability of the juvenile's parent or guardian to pay for the treatment.

(3) The department may provide funds, under this section, for youth in the care and custody of a tribe or through a tribal court, for the treatment of sexually aggressive youth only if: (a) The tribe uses the same or equivalent definitions and standards for determining which youth are sexually aggressive; and (b) the department seeks to recover any federal funds available for the treatment of youth.

Sec. 62. RCW 74.13.077 and 1993 c 402 s 4 are each amended to read as follows:

The secretary ((~~of the department of social and health services~~)) is authorized to transfer surplus, unused treatment funds from the civil commitment center operated under chapter 71.09 RCW to the division of children and family services to provide treatment services for sexually aggressive youth.

Sec. 63. RCW 74.13.096 and 2007 c 465 s 2 are each amended to read as follows:

(1) The secretary ((~~of the department of social and health services~~)) shall convene an advisory committee to analyze and make recommendations on the disproportionate representation of children of color in Washington's child welfare system. The department shall collaborate with the Washington institute for public policy and private sector entities to develop a methodology for the advisory committee to follow in conducting a baseline analysis of data from the child welfare system to determine whether racial disproportionality and racial disparity exist in this system. The Washington institute for public policy shall serve as technical staff for the advisory committee. In determining whether racial disproportionality or racial disparity exists, the committee shall utilize existing research and evaluations conducted within Washington state, nationally, and in other states and localities that have similarly analyzed the prevalence of racial disproportionality and disparity in child welfare.

(2) At a minimum, the advisory committee shall examine and analyze: (a) The level of involvement of children of color at each stage in the state's child welfare system, including the points of entry and exit, and each point at which a treatment decision is made; (b) the number of children of color in low-income or single-parent families involved in the state's child welfare system; (c) the family structures of families involved in the state's child welfare system; and (d) the outcomes for children in the existing child welfare system. This analysis shall be disaggregated by racial and ethnic group, and by geographic region.

(3) The committee of not more than fifteen individuals shall consist of experts in social work, law, child welfare, psychology, or related fields, at least two tribal representatives, a representative of the governor's juvenile justice advisory committee, a representative of a community-based organization involved with child welfare issues, a representative of the department ((~~of social and health services~~)), a current or former foster care youth, a current or former foster care parent, and a parent previously involved with Washington's child welfare system. Committee members shall be selected as follows: (a) Five members selected by the senate majority leader; (b) five members selected by the speaker of the house of representatives; and (c) five members selected by the secretary of the department ((~~of social and health services~~)). The secretary, the senate

majority leader, and the speaker of the house of representatives shall coordinate appointments to ensure the representation specified in this subsection is achieved. After the advisory committee appointments are finalized, the committee shall select two individuals to serve as cochairs of the committee, one of whom shall be a representative from a nongovernmental entity.

(4) The secretary shall make reasonable efforts to seek public and private funding for the advisory committee.

(5) Not later than June 1, 2008, the advisory committee created in subsection (1) of this section shall report to the secretary of the department ((~~of social and health services~~)) on the results of the analysis. If the results of the analysis indicate disproportionality or disparity exists for any racial or ethnic group in any region of the state, the committee, in conjunction with the secretary of the department ((~~of social and health services~~)), shall develop a plan for remedying the disproportionality or disparity. The remediation plan shall include: (a) Recommendations for administrative and legislative actions related to appropriate programs and services to reduce and eliminate disparities in the system and improve the long-term outcomes for children of color who are served by the system; and (b) performance measures for implementing the remediation plan. To the extent possible and appropriate, the remediation plan shall be developed to integrate the recommendations required in this subsection with the department's existing compliance plans, training efforts, and other practice improvement and reform initiatives in progress. The advisory committee shall be responsible for ongoing evaluation of current and prospective policies and procedures for their contribution to or effect on racial disproportionality and disparity.

(6) Not later than December 1, 2008, the secretary shall report the results of the analysis conducted under subsection (2) of this section and shall describe the remediation plan required under subsection (5) of this section to the appropriate committees of the legislature with jurisdiction over policy and fiscal matters relating to children, families, and human services. Beginning January 1, 2010, the secretary shall report annually to the appropriate committees of the legislature on the implementation of the remediation plan, including any measurable progress made in reducing and eliminating racial disproportionality and disparity in the state's child welfare system.

Sec. 64. RCW 74.13.103 and 1971 ex.s. c 63 s 2 are each amended to read as follows:

When a child proposed for adoption is placed with a prospective adoptive parent the department may charge such parent a fee in payment or part payment of such adoptive parent's part of the cost of the adoption services rendered and to be rendered by the department.

In charging such fees the department shall treat a husband and wife as a single prospective adoptive parent.

Each such fee shall be fixed according to a sliding scale based on the ability to pay of the prospective adoptive parent or parents.

Such fee scale shall be annually fixed by the secretary after considering the recommendations of the committee designated by the secretary to advise him or her on child welfare and pursuant to the regulations to be issued by the secretary in accordance with the provisions of Title 34 RCW.

The secretary may waive, defer, or provide for payment in installments without interest of, any such fee whenever in his or her judgment payment or immediate payment would cause economic hardship to such adoptive parent or parents.

Nothing in this section shall require the payment of a fee to the state of Washington in a case in which an adoption results from independent placement or placement by a licensed child-placing or supervising agency.

Sec. 65. RCW 74.13.106 and 1985 c 7 s 134 are each amended to read as follows:

All fees paid for adoption services pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) shall be credited to the general fund. Expenses incurred in connection with supporting the adoption of hard to place children shall be paid by warrants drawn against such appropriations as may be available. The secretary may for such purposes, contract with any public agency or ((~~licensed child placing~~)) supervising agency and/or adoptive parent and is authorized to accept funds from other sources including federal, private, and other public funding sources to carry out such purposes.

The secretary shall actively seek, where consistent with the policies and programs of the department, and shall make maximum use of, such federal funds as are or may be made available to the department for the purpose of supporting the adoption of hard to place children. The secretary may, if permitted by federal law, deposit federal funds for adoption support, aid to adoptions, or subsidized adoption in the general fund and may use such funds, subject to such limitations as may be imposed by federal or state law, to carry out the program of adoption support authorized by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act).

Sec. 66. RCW 74.13.109 and 1990 c 285 s 7 are each amended to read as follows:

The secretary shall issue rules and regulations to assist in the administration of the program of adoption support authorized by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act).

Disbursements from the appropriations available from the general fund shall be made pursuant to such rules and regulations and pursuant to agreements conforming thereto to be made by the secretary with parents for the purpose of supporting the adoption of children in, or likely to be placed in, foster homes or child caring institutions who are found by the secretary to be difficult to place in adoption because of physical or other reasons; including, but not limited to, physical or mental handicap, emotional disturbance, ethnic background, language, race, color, age, or sibling grouping.

Such agreements shall meet the following criteria:

(1) The child whose adoption is to be supported pursuant to such agreement shall be or have been a child hard to place in adoption.

(2) Such agreement must relate to a child who was or is residing in a foster home or child-caring institution or a child who, in the judgment of the secretary, is both eligible for, and likely to be placed in, either a foster home or a child-caring institution.

(3) Such agreement shall provide that adoption support shall not continue beyond the time that the adopted child reaches eighteen years of age, becomes emancipated, dies, or otherwise ceases to need support((~~, provided that~~)). If the secretary ((~~shall~~)) finds that continuing dependency of such child after such child reaches eighteen years of age warrants the continuation of support pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) the secretary may do so, subject to all the provisions of RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act), including annual review of the amount of such support.

(4) Any prospective parent who is to be a party to such agreement shall be a person who has the character, judgment, sense of responsibility, and disposition which make him or her suitable as an adoptive parent of such child.

Sec. 67. RCW 74.13.124 and 1985 c 7 s 140 are each amended to read as follows:

An agreement for adoption support made ((~~pursuant to RCW 26.32.115~~)) before January 1, 1985, or pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act), although subject to review and adjustment as provided for herein, shall, as to the standard used by the secretary in making such review or reviews and any such adjustment, constitutes a contract within the meaning of section 10, Article I of the United States Constitution and section 23, Article I of the state Constitution. For that reason once such an agreement has been made any review of and adjustment under such agreement shall as to the standards used by the secretary, be made only subject to the provisions of RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) and such rules and regulations relating thereto as they exist on the date of the initial determination in connection with such agreement or such more generous standard or parts of such standard as may hereafter be provided for by law or regulation. Once made such an agreement shall constitute a solemn undertaking by the state of Washington with such adoptive parent or parents. The termination of the effective period of RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) or a decision by the state or federal government to discontinue or reduce general appropriations made available for the purposes to be served by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act), shall not affect the state's specific continuing obligations to support such adoptions, subject to such annual review and adjustment for all such agreements as have theretofore been entered into by the state.

The purpose of this section is to assure any such parent that, upon his or her consenting to assume the burdens of adopting a hard to place child, the state will not in future so act by way of general reduction of appropriations for the program authorized by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) or ratable reductions, to impair the trust and confidence necessarily reposed by such parent in the state as a condition of such parent taking upon himself or herself the obligations of parenthood of a difficult to place child.

Should the secretary and any such adoptive parent differ as to whether any standard or part of a standard adopted by the secretary after the date of an initial agreement, which standard or part is used by the secretary in making any review and adjustment, is more generous than the standard in effect as of the date of the initial determination with respect to such agreement such adoptive parent may invoke his or her rights, including all rights of appeal under the fair hearing provisions, available to him or her under RCW 74.13.127 (as recodified by this act).

Sec. 68. RCW 74.13.136 and 1985 c 7 s 144 are each amended to read as follows:

Any ((~~child-caring~~)) supervising agency or person having a child in foster care or institutional care and wishing to recommend to the secretary support of the adoption of such child as provided for in RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) may do so, and may include in its or his or her recommendation advice as to the appropriate level of support and any other information likely to assist the secretary in carrying out the functions vested in the secretary by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act). Such agency may, but is not required to, be retained by the secretary to make the required preplacement study of the prospective adoptive parent or parents.

Sec. 69. RCW 74.13.165 and 1997 c 272 s 4 are each amended to read as follows:

The secretary or the secretary's designee ((~~may~~)) shall purchase services from nonprofit agencies for the purpose of conducting home studies for legally free children who have been awaiting adoption finalization for more than ((~~ninety~~)) sixty days. The home studies selected to be done under this section shall be for the children who have been legally free and awaiting adoption finalization the longest period of time.

This section expires June 30, 2011.

Sec. 70. RCW 74.13.170 and 1991 c 326 s 2 are each amended to read as follows:

The department ((~~of social and health services~~)) may, through performance-based contracts with supervising agencies, implement a therapeutic family home program for up to fifteen youth in the custody of the department under chapter 13.34 RCW. The program shall strive to develop and maintain a mutually reinforcing relationship between the youth and the therapeutic staff associated with the program.

Sec. 71. RCW 74.13.250 and 1990 c 284 s 2 are each amended to read as follows:

(1) Preservice training is recognized as a valuable tool to reduce placement disruptions, the length of time children are in care, and foster parent turnover rates. Preservice training also assists potential foster parents in making their final decisions about foster parenting and assists social service agencies in obtaining information about whether to approve potential foster parents.

(2) Foster parent preservice training shall include information about the potential impact of placement on foster children; social service agency administrative processes; the requirements, responsibilities, expectations, and skills needed to be a foster parent; attachment, separation, and loss issues faced by birth parents, foster children, and foster parents; child management and discipline; birth family relationships; and helping children leave foster care. Preservice training shall assist applicants in making informed decisions about whether they want to be foster parents. Preservice training shall be designed to enable the agency to assess the ability, readiness, and appropriateness of families to be foster parents. As a decision tool, effective preservice training provides potential foster parents with enough information to make an appropriate decision, affords potential foster parents an opportunity to discuss their decision with others and consider its implications for their family, clarifies foster family expectations, presents a realistic picture of what foster parenting involves, and allows potential foster parents to consider and explore the different types of children they might serve.

(3) Foster parents shall complete preservice training ((~~shall be completed prior to~~)) before the issuance of a foster care license, except that the department may, on a case by case basis, issue a written waiver that allows the foster parent to complete the training after licensure, so long as the training is completed within ninety days following licensure.

Sec. 72. RCW 74.13.280 and 2007 c 409 s 6 and 2007 c 220 s 4 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 70.24.105, whenever a child is placed in out-of-home care by the department or a ((~~child-placing~~)) supervising agency, the department or agency shall share information known to the department or agency about the child and the child's family with the care provider and shall consult with the care provider regarding the child's case plan. If the child is dependent pursuant to a proceeding under chapter 13.34 RCW, the department or supervising agency shall keep the care provider informed regarding the dates and location of dependency review and permanency planning hearings pertaining to the child.

(2) Information about the child and the child's family shall include information known to the department or agency as to whether the child is a sexually reactive child, has exhibited high-risk behaviors, or is physically assaultive or physically aggressive, as defined in this section.

(3) Information about the child shall also include information known to the department or agency that the child:

(a) Has received a medical diagnosis of fetal alcohol syndrome or fetal alcohol effect;

(b) Has been diagnosed by a qualified mental health professional as having a mental health disorder;

(c) Has witnessed a death or substantial physical violence in the past or recent past; or

(d) Was a victim of sexual or severe physical abuse in the recent past.

(4) Any person who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information except as authorized by law. Care providers shall agree in writing to keep the information that they receive confidential and shall affirm that the information will not be further disclosed or disseminated, except as authorized by law.

(5) Nothing in this section shall be construed to limit the authority of the department or ((~~child-placing~~)) supervising agencies to disclose client information or to maintain client confidentiality as provided by law.

(6) As used in this section:

(a) "Sexually reactive child" means a child who exhibits sexual behavior problems including, but not limited to, sexual behaviors that are developmentally inappropriate for their age or are harmful to the child or others.

(b) "High-risk behavior" means an observed or reported and documented history of one or more of the following:

(i) Suicide attempts or suicidal behavior or ideation;

(ii) Self-mutilation or similar self-destructive behavior;

(iii) Fire-setting or a developmentally inappropriate fascination with fire;

(iv) Animal torture;

(v) Property destruction; or

(vi) Substance or alcohol abuse.

(c) "Physically assaultive or physically aggressive" means a child who exhibits one or more of the following behaviors that are developmentally inappropriate and harmful to the child or to others:

(i) Observed assaultive behavior;

(ii) Reported and documented history of the child willfully assaulting or inflicting bodily harm; or

(iii) Attempting to assault or inflict bodily harm on other children or adults under circumstances where the child has the apparent ability or capability to carry out the attempted assaults including threats to use a weapon.

Sec. 73. RCW 74.13.283 and 2008 c 267 s 7 are each amended to read as follows:

(1) For the purpose of assisting foster youth in obtaining a Washington state identicard, submission of the information and materials listed in this subsection from the department or supervising agency to the department of licensing is sufficient proof of identity and residency and shall serve as the necessary authorization for the youth to apply for and obtain a Washington state identicard:

(a) A written signed statement prepared on department or supervising agency letterhead, verifying the following:

(i) The youth is a minor who resides in Washington;

(ii) Pursuant to a court order, the youth is dependent and the department or ((~~other~~)) supervising agency is the legal custodian of the youth under chapter 13.34 RCW or under the interstate compact on the placement of children;

(iii) The youth's full name and date of birth;

(iv) The youth's social security number, if available;

(v) A brief physical description of the youth;

(vi) The appropriate address to be listed on the youth's identicard; and

(vii) Contact information for the appropriate person ((~~at~~)) with the department or supervising agency.

(b) A photograph of the youth, which may be digitized and integrated into the statement.

(2) The department or supervising agency may provide the statement and the photograph via any of the following methods, whichever is most efficient or convenient:

(a) Delivered via first-class mail or electronically to the headquarters office of the department of licensing; or

(b) Hand-delivered to a local office of the department of licensing by a department or supervising agency case worker.

(3) A copy of the statement shall be provided to the youth who shall provide the copy to the department of licensing when making an in-person application for a Washington state identicard.

(4) To the extent other identifying information is readily available, the department or supervising agency shall include the additional information with the submission of information required under subsection (1) of this section.

Sec. 74. RCW 74.13.285 and 2007 c 409 s 7 are each amended to read as follows:

(1) Within available resources, the department or supervising agency shall prepare a passport containing all known and available information concerning the mental, physical, health, and educational status of the child for any child who has been in a foster home for ninety consecutive days or more. The passport shall contain education records obtained pursuant to RCW 28A.150.510. The passport shall be provided to a foster parent at any placement of a child covered by this section. The department or supervising agency shall update the passport during the regularly scheduled court reviews required under chapter 13.34 RCW.

New placements ((~~after July 1, 1997,~~)) shall have first priority in the preparation of passports. ((~~Within available resources, the department may prepare passports for any child in a foster home on July 1, 1997, provided that no time spent in a foster home before July 1, 1997, shall be included in the computation of the ninety days.~~))

(2) In addition to the requirements of subsection (1) of this section, the department or supervising agency shall, within available resources, notify a foster parent before placement of a child of any known health conditions that pose a serious threat to the child and any known behavioral history that presents a serious risk of harm to the child or others.

(3) The department shall hold harmless the provider including supervising agencies for any unauthorized disclosures caused by the department.

(4) Any foster parent who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information, except as authorized by law. Such individuals shall agree in writing to keep the information that they receive confidential and shall affirm that the information will not be further disclosed or disseminated, except as authorized by law.

Sec. 75. RCW 74.13.288 and 2004 c 40 s 2 are each amended to read as follows:

((~~(1)~~)) The department of health shall develop recommendations concerning evidence-based practices for testing for blood-borne pathogens of children under one year of age who have been placed in out-of-home care and shall identify the specific pathogens for which testing is recommended.

((~~(2) The department shall report to the appropriate committees of the legislature on the recommendations developed in accordance with subsection (1) of this section by January 1, 2005.~~))

Sec. 76. RCW 74.13.289 and 2004 c 40 s 3 are each amended to read as follows:

(1) Upon any placement, the department ((~~of social and health services~~)) or supervising agency shall inform each out-of-home care provider if the child to be placed in that provider's care is infected with a blood-borne pathogen, and shall identify the specific blood-borne pathogen for which the child was tested if known by the department or supervising agency.

(2) All out-of-home care providers licensed by the department shall receive training related to blood-borne pathogens, including prevention, transmission, infection control, treatment, testing, and confidentiality.

(3) Any disclosure of information related to HIV must be in accordance with RCW 70.24.105.

(4) The department of health shall identify by rule the term "blood-borne pathogen" as used in this section.

Sec. 77. RCW 74.13.300 and 1990 c 284 s 12 are each amended to read as follows:

(1) Whenever a child has been placed in a foster family home by the department or ((~~a child-placing~~)) supervising agency and the child has thereafter resided in the home for at least ninety consecutive days, the department or ((~~child-placing~~)) supervising agency shall notify the foster family at least five days prior to moving the child to another placement, unless:

(a) A court order has been entered requiring an immediate change in placement;

(b) The child is being returned home;

(c) The child's safety is in jeopardy; or

(d) The child is residing in a receiving home or a group home.

(2) If the child has resided in a foster family home for less than ninety days or if, due to one or more of the circumstances in subsection (1) of this section, it is not possible to give five days' notification, the department or ((~~child-placing~~)) supervising agency shall notify the foster family of proposed placement changes as soon as reasonably possible.

(3) This section is intended solely to assist in minimizing disruption to the child in changing foster care placements. Nothing in this section shall be construed to require that a court hearing be held prior to changing a child's foster care placement nor to create any substantive custody rights in the foster parents.

Sec. 78. RCW 74.13.310 and 1990 c 284 s 13 are each amended to read as follows:

Adequate foster parent training has been identified as directly associated with increasing the length of time foster parents are willing to provide foster care and reducing the number of placement disruptions for children. Placement disruptions can be harmful to children by denying them consistent and nurturing support. Foster parents have expressed the desire to receive training in addition to the foster parent ((~~SCOPE~~)) training currently offered. Foster parents who care for more demanding children, such as children with severe emotional, mental, or physical handicaps, would especially benefit from additional training. The department and supervising agency shall develop additional training for foster parents that focuses on skills to assist foster parents in caring for emotionally, mentally, or physically handicapped children.

Sec. 79. RCW 74.13.315 and 1997 c 272 s 6 are each amended to read as follows:

The department or supervising agency may provide child care for all foster parents who are required to attend department-sponsored or supervising agency-sponsored meetings or training sessions. If the department or supervising agency does not provide such child care, the department or supervising agency, where feasible, shall conduct the activities covered by this section in the foster parent's home or other location acceptable to the foster parent.

Sec. 80. RCW 74.13.320 and 1990 c 284 s 15 are each amended to read as follows:

((~~The legislature finds that during the fiscal years 1987 to 1989 the number of children in foster care has risen by 14.3 percent. At the same time there has been a 31 percent turnover rate in foster homes because many foster parents have declined to continue to care for foster children. This situation has caused a dangerously critical shortage of foster homes.~~

~~The department of social and health services shall develop and implement a project to recruit more foster homes and adoptive homes for special needs children by developing a request for proposal to licensed private foster care, licensed adoption agencies, and other organizations qualified to provide this service.~~

~~The project shall consist of one statewide administrator of recruitment programs, and one or more licensed foster care or adoption agency contracts in each of the six departmental regions. These contracts shall enhance currently provided services and may not replace services currently funded by the agencies. No more than sixty thousand dollars may be spent annually to fund the administrator position.~~

~~The agencies shall recruit foster care homes and adoptive homes for children classified as special needs children under chapter 74.08 RCW. The agencies shall utilize their own network of contacts and shall also develop programs similar to those used effectively in other states. The department shall expand the foster-adopt program statewide to encourage stable placements for foster children for whom permanent out- of-home placement is a likelihood. The department shall carefully consider existing programs to eliminate duplication of services.~~))

The department shall assist ((~~the private contractors~~)) supervising agencies by providing printing services for informational brochures and other necessary recruitment materials. No more than fifty thousand dollars of the funds provided for this section may be expended annually for recruitment materials.

Sec. 81. RCW 74.13.325 and 1997 c 272 s 3 are each amended to read as follows:

Within available resources, the department and supervising agencies shall increase the number of adoptive and foster families available to accept children through an intensive recruitment and retention program. The department shall ((~~contract with a private agency to~~)) enter into performance-based contracts with supervising agencies, under which the agencies will coordinate all foster care and adoptive home recruitment activities ((~~for the department and private agencies~~)).

Sec. 82. RCW 74.13.333 and 2004 c 181 s 1 are each amended to read as follows:

A foster parent who believes that a department or supervising agency employee has retaliated against the foster parent or in any other manner discriminated against the foster parent because:

(1) The foster parent made a complaint with the office of the family and children's ombudsman, the attorney general, law

enforcement agencies, ((~~or~~)) the department, or the supervising agency, provided information, or otherwise cooperated with the investigation of such a complaint;

(2) The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW;

(3) The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW;

(4) The foster parent has advocated for services on behalf of the foster child;

(5) The foster parent has sought to adopt a foster child in the foster parent's care; or

(6) The foster parent has discussed or consulted with anyone concerning the foster parent's rights under this chapter or chapter 74.15 or 13.34 RCW,

may file a complaint with the office of the family and children's ombudsman. The office of the family and children's ombudsman shall include its recommendations regarding complaints filed under this section in its annual report pursuant to RCW 43.06A.030. The office of the family and children's ombudsman shall identify trends which may indicate a need to improve relations between the department or supervising agency and foster parents.

Sec. 83. RCW 74.13.334 and 2004 c 181 s 2 are each amended to read as follows:

The department and supervising agency shall develop procedures for responding to recommendations of the office of the family and children's ombudsman as a result of any and all complaints filed by foster parents under RCW 74.13.333.

Sec. 84. RCW 74.13.500 and 2005 c 274 s 351 are each amended to read as follows:

(1) Consistent with the provisions of chapter 42.56 RCW and applicable federal law, the secretary, or the secretary's designee, shall disclose information regarding the abuse or neglect of a child, the investigation of the abuse, neglect, or near fatality of a child, and any services related to the abuse or neglect of a child if any one of the following factors is present:

(a) The subject of the report has been charged in an accusatory instrument with committing a crime related to a report maintained by the department in its case and management information system;

(b) The investigation of the abuse or neglect of the child by the department or the provision of services by the department or a supervising agency has been publicly disclosed in a report required to be disclosed in the course of their official duties, by a law enforcement agency or official, a prosecuting attorney, any other state or local investigative agency or official, or by a judge of the superior court;

(c) There has been a prior knowing, voluntary public disclosure by an individual concerning a report of child abuse or neglect in which such individual is named as the subject of the report; or

(d) The child named in the report has died and the child's death resulted from abuse or neglect or the child was in the care of, or receiving services from the department or a supervising agency at the time of death or within twelve months before death.

(2) The secretary is not required to disclose information if the factors in subsection (1) of this section are present if he or she specifically determines the disclosure is contrary to the best interests of the child, the child's siblings, or other children in the household.

(3) Except for cases in subsection (1)(d) of this section, requests for information under this section shall specifically identify the case about which information is sought and the facts that support a determination that one of the factors specified in subsection (1) of this section is present.

(4) For the purposes of this section, "near fatality" means an act that, as certified by a physician, places the child in serious or critical condition. The secretary is under no obligation to have an act certified by a physician in order to comply with this section.

Sec. 85. RCW 74.13.515 and 2005 c 274 s 352 are each amended to read as follows:

For purposes of RCW 74.13.500(1)(d), the secretary must make the fullest possible disclosure consistent with chapter 42.56 RCW and applicable federal law in cases of all fatalities of children who were in the care of, or receiving services from, the department or a supervising agency at the time of their death or within the twelve months previous to their death.

If the secretary specifically determines that disclosure of the name of the deceased child is contrary to the best interests of the child's siblings or other children in the household, the secretary may remove personally identifying information.

For the purposes of this section, "personally identifying information" means the name, street address, social security number, and day of birth of the child who died and of private persons who are relatives of the child named in child welfare records. "Personally identifying information" shall not include the month or year of birth of the child who has died. Once this personally identifying information is removed, the remainder of the records pertaining to a child who has died must be released regardless of whether the remaining facts in the records are embarrassing to the unidentifiable other private parties or to identifiable public workers who handled the case.

Sec. 86. RCW 74.13.525 and 2005 c 274 s 353 are each amended to read as follows:

The department or supervising agency, when acting in good faith, is immune from any criminal or civil liability, except as provided under RCW 42.56.550, for any action taken under RCW 74.13.500 through 74.13.520.

Sec. 87. RCW 74.13.530 and 2001 c 318 s 4 are each amended to read as follows:

(1) No child may be placed or remain in a specific out-of-home placement under this chapter or chapter 13.34 RCW when there is a conflict of interest on the part of any adult residing in the home in which the child is to be or has been placed. A conflict of interest exists when:

(a) There is an adult in the home who, as a result of: (i) His or her employment; and (ii) an allegation of abuse or neglect of the child, conducts or has conducted an investigation of the allegation; or

(b) The child has been, is, or is likely to be a witness in any pending cause of action against any adult in the home when the cause includes: (i) An allegation of abuse or neglect against the child or any sibling of the child; or (ii) a claim of damages resulting from wrongful interference with the parent-child relationship of the child and his or her biological or adoptive parent.

(2) For purposes of this section, "investigation" means the exercise of professional judgment in the review of allegations of abuse or neglect by: (a) Law enforcement personnel; (b) persons employed by, or under contract with, the state; (c) persons licensed to practice law and their employees; and (d) mental health professionals as defined in chapter 71.05 RCW.

(3) The prohibition set forth in subsection (1) of this section may not be waived or deferred by the department or a supervising agency under any circumstance or at the request of any person, regardless of who has made the request or the length of time of the requested placement.

Sec. 88. RCW 74.13.560 and 2003 c 112 s 3 are each amended to read as follows:

The administrative regions of the department and the supervising agencies shall develop protocols with the respective school districts in their regions specifying specific strategies for communication, coordination, and collaboration regarding the status and progress of foster children placed in the region, in order to maximize the educational continuity and achievement for foster children. The protocols shall include methods to assure effective sharing of information consistent with RCW 28A.225.330.

Sec. 89. RCW 74.13.590 and 2003 c 112 s 6 are each amended to read as follows:

The department and supervising agencies shall perform the tasks provided in RCW 74.13.550 through 74.13.580 based on available resources.

Sec. 90. RCW 74.13.600 and 2003 c 284 s 1 are each amended to read as follows:

(1) For the purposes of this section, "kin" means persons eighteen years of age or older to whom the child is related by blood, adoption, or marriage, including marriages that have been dissolved, and means: (a) Any person denoted by the prefix "grand" or "great"; (b) sibling, whether full, half, or step; (c) uncle or aunt; (d) nephew or niece; or (e) first cousin.

(2) The department and supervising agencies shall plan, design, and implement strategies to prioritize the placement of children with willing and able kin when out-of-home placement is required.

These strategies must include at least the following:

(a) Development of standardized, statewide procedures to be used by supervising agencies when searching for kin of children prior to out- of-home placement. The procedures must include a requirement that documentation be maintained in the child's case record that identifies kin, and documentation that identifies the assessment criteria and procedures that were followed during all kin searches. The procedures must be used when a child is placed in out-of-home care under authority of chapter 13.34 RCW, when a petition is filed under RCW 13.32A.140, or when a child is placed under a voluntary placement agreement. To assist with implementation of the procedures, the department or supervising agencies shall request that the juvenile court require parents to disclose to the ((~~department~~)) agencies all contact information for available and appropriate kin within two weeks of an entered order. For placements under signed voluntary agreements, the department and supervising agencies shall encourage the parents to disclose to the department and agencies all contact information for available and appropriate kin within two weeks of the date the parent signs the voluntary placement agreement.

(b) Development of procedures for conducting active outreach efforts to identify and locate kin during all searches. The procedures must include at least the following elements:

(i) Reasonable efforts to interview known kin, friends, teachers, and other identified community members who may have knowledge of the child's kin, within sixty days of the child entering out-of-home care;

(ii) Increased use of those procedures determined by research to be the most effective methods of promoting reunification efforts, permanency planning, and placement decisions;

(iii) Contacts with kin identified through outreach efforts and interviews under this subsection as part of permanency planning activities and change of placement discussions;

(iv) Establishment of a process for ongoing contact with kin who express interest in being considered as a placement resource for the child; and

(v) A requirement that when the decision is made to not place the child with any kin, the department or supervising agency provides documentation as part of the child's individual service and safety plan that clearly identifies the rationale for the decision and corrective action or actions the kin must take to be considered as a viable placement option.

(3) Nothing in this section shall be construed to create an entitlement to services or to create judicial authority to order the provision of services to any person or family if the services are unavailable or unsuitable or the child or family is not eligible for such services.

Sec. 91. RCW 74.13.640 and 2008 c 211 s 1 are each amended to read as follows:

(1) The department ((~~of social and health services~~)) shall conduct a child fatality review in the event of an unexpected death of a minor in the state who is in the care of or receiving services described in chapter 74.13 RCW from the department or a supervising agency or who has been in the care of or received services described in chapter 74.13 RCW from the department or a supervising agency within one year preceding the minor's death.

(2) Upon conclusion of a child fatality review required pursuant to subsection (1) of this section, the department shall within one hundred eighty days following the fatality issue a report on the results of the review, unless an extension has been granted by the governor. Reports shall be distributed to the appropriate committees of the legislature, and the department shall create a public web site where all child fatality review reports required under this section shall be posted and maintained.

(3) The department shall develop and implement procedures to carry out the requirements of subsections (1) and (2) of this section.

(4) In the event a child fatality is the result of apparent abuse or neglect by the child's parent or caregiver, the department shall ensure that the fatality review team is comprised of individuals who had no previous involvement in the case and whose professional expertise is pertinent to the dynamics of the case.

(5) In the event of a near-fatality of a child who is in the care of or receiving services described in this chapter from the department or who has been in the care of or received services described in this chapter from the department within one year preceding the near-fatality, the department shall promptly notify the office of the family and children's ombudsman.

Sec. 92. RCW 74.13.650 and 2007 c 220 s 7 are each amended to read as follows:

A foster parent critical support and retention program is established to retain foster parents who care for sexually reactive children, physically assaultive children, or children with other high-risk behaviors, as defined in RCW 74.13.280. Services shall consist of short-term therapeutic and educational interventions to support the stability of the placement. The ((~~foster parent critical support and retention program is to be implemented under the division of children and family services' contract and supervision. A contractor must demonstrate experience providing in-home case management, as well as experience working with caregivers of children with significant behavioral issues that pose a threat to others or themselves or the stability of the placement~~)) department shall enter into performance-based contracts with supervising agencies to provide this program.

Sec. 93. RCW 74.13.670 and 2007 c 220 s 5 are each amended to read as follows:

(1) A care provider may not be found to have abused or neglected a child under chapter 26.44 RCW or be denied a license pursuant to chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to supervise ((~~wherein~~)) in which:

(a) The allegations arise from the child's conduct that is substantially similar to prior behavior of the child, and:

(i) The child is a sexually reactive youth, exhibits high-risk behaviors, or is physically assaultive or physically aggressive as defined in RCW 74.13.280, and this information and the child's prior behavior was not disclosed to the care provider as required by RCW 74.13.280; and

(ii) The care provider did not know or have reason to know that the child needed supervision as a sexually reactive or physically assaultive or physically aggressive youth, or because of a documented history of high-risk behaviors, as a result of the care provider's involvement with or independent knowledge of the child or training and experience; or

(b) The child was not within the reasonable control of the care provider at the time of the incident that is the subject of the allegation, and the care provider was acting in good faith and did not know or have reason to know that reasonable control or supervision of the child was necessary to prevent harm or risk of harm to the child or other persons.

(2) Allegations of child abuse or neglect that meet the provisions of this section shall be designated as "unfounded" as defined in RCW 26.44.020.

NEW SECTION. Sec. 94. RCW 74.13.085, 74.13.0902, 74.13.095, and 74.15.031 are each recodified as new sections in chapter 43.215 RCW.

NEW SECTION. Sec. 95. RCW 74.13.100, 74.13.103, 74.13.106, 74.13.109, 74.13.112, 74.13.115, 74.13.116, 74.13.118, 74.13.121, 74.13.124, 74.13.127, 74.13.130, 74.13.133, 74.13.136, 74.13.139, 74.13.145, 74.13.150, 74.13.152, 74.13.153, 74.13.154, 74.13.155, 74.13.156, 74.13.157, 74.13.158, 74.13.159, 74.13.165, and 74.13.170 are each recodified as a new chapter in Title 74 RCW.

NEW SECTION. Sec. 96. Section 63 of this act expires June 30, 2014.

NEW SECTION. Sec. 97. The following acts or parts of acts are each repealed:

1.1.1.1. RCW 13.34.803 (Drug-affected and alcohol-affected infants-- Comprehensive plan--Report) and 1998 c 314 s 40;

1.1.1.2. RCW 13.34.805 (Drug-affected infants--Study) and 1998 c 314 s 31;

1.1.1.3. RCW 13.34.8051 (Drug-affected infants--Study--Alcohol-affected infants to be included) and 1998 c 314 s 32;

1.1.1.4. RCW 13.34.810 (Implementation of chapter 314, Laws of 1998) and 1998 c 314 s 48;

1.1.1.5. RCW 26.44.230 (Abuse of adolescents--Reviews and reports) and 2005 c 345 s 2;

1.1.1.6. RCW 74.13.200 (Demonstration project for protection, care, and treatment of children at-risk of abuse or neglect) and 1979 ex.s. c 248 s 1;

1.1.1.7. RCW 74.13.210 (Project day care center--Definition) and 1979 ex.s. c 248 s 2;

1.1.1.8. RCW 74.13.220 (Project services) and 1979 ex.s. c 248 s 3;

1.1.1.9. RCW 74.13.230 (Project shall utilize community services) and 1979 ex.s. c 248 s 4;

1.1.1.10. RCW 74.13.340 (Foster parent liaison) and 1997 c 272 s 2;

1.1.1.11. RCW 74.13.630 (Family decision meetings) and 2004 c 182 s 2; and

1.1.1.12. RCW 74.13.800 (Intensive resource home pilot) and 2008 c 281 s 2.

NEW SECTION. Sec. 98. Section 8 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 2 of the title, after "reforms;" strike the remainder of the title and insert "amending RCW 74.13.020, 74.15.010, 74.15.020, 74.15.050, 74.15.100, 26.44.020, 26.44.200, 13.34.025, 13.34.030, 13.34.065, 13.34.067, 13.34.094, 13.34.096, 13.34.125, 13.34.145, 13.34.155, 13.34.174, 13.34.176, 13.34.180, 13.34.210, 13.34.215, 13.34.230, 13.34.233, 13.34.245, 13.34.320, 13.34.330, 13.34.340, 13.34.350, 13.34.370, 13.34.380, 13.34.385, 13.34.390, 13.34.400, 74.13.010, 74.13.031, 74.13.0311, 74.13.032, 74.13.036, 74.13.037, 74.13.042, 74.13.045, 74.13.055, 74.13.060, 74.13.065, 74.13.075, 74.13.077, 74.13.096, 74.13.103, 74.13.106, 74.13.109, 74.13.124, 74.13.136, 74.13.165, 74.13.170, 74.13.250, 74.13.283, 74.13.285, 74.13.288, 74.13.289, 74.13.300, 74.13.310, 74.13.315, 74.13.320, 74.13.325, 74.13.333, 74.13.334, 74.13.500, 74.13.515, 74.13.525, 74.13.530, 74.13.560, 74.13.590, 74.13.600, 74.13.640, 74.13.650, and 74.13.670; reenacting and amending RCW 74.15.030, 13.34.130, 13.34.136, 13.34.138, and 74.13.280; adding new sections to chapter 74.13 RCW; adding a new section to chapter 43.10 RCW; adding a new section to chapter 26.44 RCW; creating a new section; recodifying RCW 74.13.085, 74.13.0902, 74.13.095, 74.15.031, 74.13.100, 74.13.103, 74.13.106, 74.13.109, 74.13.112, 74.13.115, 74.13.116, 74.13.118, 74.13.121, 74.13.124, 74.13.127, 74.13.130, 74.13.133, 74.13.136, 74.13.139, 74.13.145, 74.13.150, 74.13.152, 74.13.153, 74.13.154, 74.13.155, 74.13.156, 74.13.157, 74.13.158, 74.13.159, 74.13.165, and 74.13.170; repealing RCW 13.34.803, 13.34.805, 13.34.8051, 13.34.810, 26.44.230, 74.13.200, 74.13.210, 74.13.220, 74.13.230, 74.13.340, 74.13.630, and 74.13.800; providing expiration dates; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2106 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Kagi, Alexander and Linville spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2106, as amended by the Senate.

MOTION

On motion of Representative Santos, Representative Clibborn was excused.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2106, as amended by the Senate, and the

bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Representative Clibborn.

SECOND SUBSTITUTE HOUSE BILL NO. 2106, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2146 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec.** 1. RCW 35.91.020 and 2006 c 88 s 2 are each amended to read as follows:

(1) Except as provided under subsection (2) of this section, the governing body of any city, town, county, water-sewer district, or drainage district, hereinafter referred to as a "municipality" may contract with owners of real estate for the construction of storm, sanitary, or combination sewers, pumping stations, and disposal plants, water mains, hydrants, reservoirs, or appurtenances, hereinafter called "water or sewer facilities," within their boundaries or (except for counties) within ten miles from their corporate limits connecting with the public water or sewerage system to serve the area in which the real estate of such owners is located, and to provide for a period of not to exceed ((~~fifteen~~)) twenty years for the reimbursement of such owners and their assigns by any owner of real estate who did not contribute to the original cost of such water or sewer facilities and who subsequently tap onto or use the same of a fair pro rata share of the cost of the construction of said water or sewer facilities, including not only those directly connected thereto, but also users connected to laterals or branches connecting thereto, subject to such reasonable rules and regulations as the governing body of such municipality may provide or contract, and notwithstanding the provisions of any other law.

(2)(a) The contract may provide for an extension of the ((~~fifteen~~)) twenty-year reimbursement period for a time not to exceed the duration of any moratorium, phasing ordinance, concurrency designation, or other governmental action that prevents making applications for, or the approval of, any new development within the benefit area for a period of six months or more.

(b) Upon the extension of the reimbursement period pursuant to (a) of this subsection, the contract must specify the duration of the contract extension and must be filed and recorded with the county auditor. Property owners who are subject to the reimbursement obligations under subsection (1) of this section shall be notified by the contracting municipality of the extension filed under this subsection.

(3) Each contract shall include a provision requiring that every two years from the date the contract is executed a property owner entitled to reimbursement under this section provide the contracting municipality with information regarding the current contract name, address, and telephone number of the person, company, or partnership that originally entered into the contract. If the property owner fails to comply with the notification requirements of this subsection within sixty days of the specified time, then the contracting municipality may collect any reimbursement funds owed to the property owner under the contract. Such funds must be deposited in the capital fund of the municipality.

(4) To the extent it may require in the performance of such contract, such municipality may install said water or sewer facilities in and along the county streets in the area to be served as hereinabove provided, subject to such reasonable requirements as to the manner of occupancy of such streets as the county may by resolution provide. The provisions of such contract shall not be effective as to any owner of real estate not a party thereto unless such contract has been recorded in the office of the county auditor of the county in which the real estate of such owner is located prior to the time such owner taps into or connects to said water or sewer facilities."

On page 1, line 2 of the title, after "facilities;" strike the remainder of the title and insert "and amending RCW 35.91.020."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2146 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Simpson and Angel spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of House Bill No. 2146, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2146, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 97; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Campbell, Carlyle, Chandler, Chase, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Ericksen, Finn, Flannigan, Goodman, Grant-Herriot, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz,

Kristiansen, Liias, Linville, Maxwell, McCoy, McCune, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Ormsby, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Sells, Shea, Short, Simpson, Smith, Springer, Sullivan, Takko, Taylor, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, White, Williams, Wood and Mr. Speaker.

Excused: Representative Clibborn.

HOUSE BILL NO. 2146, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2289 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature intends to modify the energy freedom program and account in order to receive federal funds and other sources of funding. Also, the legislature intends to expand the mission of the energy freedom program to accelerate energy efficiency improvements, renewable energy improvements, and deployment of innovative energy technologies. Additionally, the legislature intends to support, through the energy freedom program, research, demonstration, and commercialization of energy efficiency improvements, renewable energy improvements, and innovation energy technologies.

Sec. 2. RCW 43.325.010 and 2007 c 348 s 301 are each amended to read as follows:

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

(1) "Applicant" means the state and any political subdivision of the state, including port districts, counties, cities, towns, special purpose districts, and other municipal corporations or quasi-municipal corporations. "Applicant" may also include federally recognized tribes ((~~and~~)), state institutions of higher education with appropriate research capabilities, any organization described in section 501(c)(3) of the internal revenue code, and private entities that are eligible to receive federal funds.

(2) "Alternative fuel" means all products or energy sources used to propel motor vehicles, other than conventional gasoline, diesel, or reformulated gasoline. "Alternative fuel" includes, but is not limited to, cellulose, liquefied petroleum gas, liquefied natural gas, compressed natural gas, biofuels, biodiesel fuel, E85 motor fuel, fuels containing seventy percent or more by volume of alcohol fuel, fuels that are derived from biomass, hydrogen fuel, anhydrous ammonia fuel, nonhazardous motor fuel, or electricity, excluding onboard electric generation.

(3) "Assistance" includes loans, leases, product purchases, or other forms of financial or technical assistance.

(4) "Biofuel" includes, but is not limited to, biodiesel, ethanol, and ethanol blend fuels and renewable liquid natural gas or liquid compressed natural gas made from biogas.

(5) "Biogas" includes waste gases derived from landfills and wastewater treatment plants and dairy and farm wastes.

(6) "Cellulose" means lignocellulosic, hemicellulosic, or other cellulosic matter that is available on a renewable or recurring basis, including dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste.

(7) "Coordinator" means the person appointed by the director of the department of community, trade, and economic development.

(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) "Energy efficiency improvement" means an installation or modification that is designed to reduce energy consumption. The term includes, but is not limited to: Insulation; storm windows and doors; automatic energy control systems; energy efficiency audits; heating, ventilating, or air conditioning and distribution system modifications or replacements in buildings or central plants; caulking and weather stripping; energy recovery systems; geothermal heat pumps; and day lighting systems.

(11) "Green highway zone" means an area in the state designated by the department that is within reasonable proximity of state route number 5, state route number 90, and state route number 82.

(((~~(11)~~))) (12) "Innovative energy technology" means, but is not limited to, the following: Smart grid or smart metering; biogas from landfills, wastewater treatment plants, anaerobic digesters, or other processes; wave or tidal power; fuel cells; high efficiency cogeneration; and energy storage systems.

(13) "Peer review committee" means a board, appointed by the director, that includes bioenergy specialists, energy conservation specialists, scientists, and individuals with specific recognized expertise.

(((~~(12)~~))) (14) "Project" ((~~means~~)) includes: (a) The construction of facilities, including the purchase of equipment, to convert farm products or wastes into electricity or gaseous or liquid fuels or other coproducts associated with such conversion; (b) clean energy projects identified by the clean energy leadership council, created in section 2, chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009; and (c) energy efficiency improvements, renewable energy improvements, or innovative energy technologies. These specifically include fixed or mobile facilities to generate electricity or methane from the anaerobic digestion of organic matter, and fixed or mobile facilities for extracting oils from canola, rape, mustard, and other oilseeds. "Project" may also include the construction of facilities associated with such conversion for the distribution and storage of such feedstocks and fuels. The definition of project does not apply to projects as described in RCW 43.325.020(5).

(15) "Renewable energy improvements" means a fixture, product, system, device, or interacting group of devices that produces energy from renewable resources. The term includes, but is not limited to: Photovoltaic systems; solar thermal systems; small wind systems; biomass systems; and geothermal systems.

(((~~(13)~~))) (16) "Refueling project" means the construction of new alternative fuel refueling facilities, as well as upgrades and expansion of existing refueling facilities, that will enable these facilities to offer alternative fuels to the public.

(((~~(14)~~))) (17) "Research and development project" means research and development, by an institution of higher education as defined in subsection (1) of this section, relating to:

(a) Bioenergy sources including but not limited to biomass and associated gases; or

(b) The development of markets for bioenergy coproducts.

Sec. 3. RCW 43.325.020 and 2007 c 348 s 302 are each amended to read as follows:

(1) The energy freedom program is established within the department. The director may establish policies and procedures

necessary for processing, reviewing, and approving applications made under this chapter.

(2) When reviewing applications submitted under this program, the director shall consult with those agencies and other public entities having expertise and knowledge to assess the technical and business feasibility of the project and probability of success. These agencies may include, but are not limited to, Washington State University, the University of Washington, the department of ecology, the department of natural resources, the department of agriculture, the department of general administration, local clean air authorities, ((~~and~~)) the Washington state conservation commission, and the clean energy leadership council created in section 2, chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009.

(3) Except as provided in subsections (4) and (5) of this section, the director, in cooperation with the department of agriculture, may approve an application only if the director finds:

(a) The project will convert farm products, wastes, cellulose, or biogas directly into electricity or biofuel or other coproducts associated with such conversion;

(b) The project demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace for use by Washington state citizens;

(c) The facility will produce long-term economic benefits to the state, a region of the state, or a particular community in the state;

(d) The project does not require continuing state support;

(e) The assistance will result in new jobs, job retention, or higher incomes for citizens of the state;

(f) The state is provided an option under the assistance agreement to purchase a portion of the fuel or feedstock to be produced by the project, exercisable by the department of general administration;

(g) The project will increase energy independence or diversity for the state;

(h) The project will use feedstocks produced in the state, if feasible, except this criterion does not apply to the construction of facilities used to distribute and store fuels that are produced from farm products or wastes;

(i) Any product produced by the project will be suitable for its intended use, will meet accepted national or state standards, and will be stored and distributed in a safe and environmentally sound manner;

(j) The application provides for adequate reporting or disclosure of financial and employment data to the director, and permits the director to require an annual or other periodic audit of the project books; and

(k) For research and development projects, the application has been independently reviewed by a peer review committee as defined in RCW 43.325.010 and the findings delivered to the director.

(4) When reviewing an application for a refueling project, the coordinator may award a grant or a loan to an applicant if the director finds:

(a) The project will offer alternative fuels to the motoring public;

(b) The project does not require continued state support;

(c) The project is located within a green highway zone as defined in RCW 43.325.010;

(d) The project will contribute towards an efficient and adequately spaced alternative fuel refueling network along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

(e) The project will result in increased access to alternative fueling infrastructure for the motoring public along the green highways designated in RCW 47.17.020, 47.17.135, and 47.17.140.

(5) When reviewing an application for energy efficiency improvements, renewable energy improvements, or innovative energy technology, the director may award a grant or a loan to an applicant if the director finds:

(a) The project or program will result in increased access for the public, state and local governments, and businesses to energy efficiency improvements, renewable energy improvements, or innovative energy technologies;

(b) The project or program demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace for use by Washington state citizens;

(c) The project or program does not require continued state support; or

(d) The federal government has provided funds with a limited time frame for use for energy independence and security, energy efficiency, renewable energy, innovative energy technologies, or conservation.

(6)(a) The director may approve a project application for assistance under subsection (3) of this section up to five million dollars. In no circumstances shall this assistance constitute more than fifty percent of the total project cost.

(b) The director may approve a refueling project application for a grant or a loan under subsection (4) of this section up to fifty thousand dollars. In no circumstances shall a grant or a loan award constitute more than fifty percent of the total project cost.

(((~~(6)~~))) (7) The director shall enter into agreements with approved applicants to fix the terms and rates of the assistance to minimize the costs to the applicants, and to encourage establishment of a viable bioenergy or biofuel industry, or a viable energy efficiency, renewable energy, or innovative energy technology industry. The agreement shall include provisions to protect the state's investment, including a requirement that a successful applicant enter into contracts with any partners that may be involved in the use of any assistance provided under this program, including services, facilities, infrastructure, or equipment. Contracts with any partners shall become part of the application record.

(((~~(7)~~))) (8) The director may defer any payments for up to twenty- four months or until the project starts to receive revenue from operations, whichever is sooner.

Sec. 4. RCW 43.325.030 and 2007 c 348 s 205 are each amended to read as follows:

The director of the department shall appoint a coordinator that is responsible for:

(1) Managing, directing, inventorying, and coordinating state efforts to promote, develop, and encourage ((~~a~~)) biofuel((~~s~~)) and energy efficiency, renewable energy, and innovative energy technology markets in Washington;

(2) Developing, coordinating, and overseeing the implementation of a plan, or series of plans, for the production, transport, distribution, and delivery of biofuels produced predominantly from recycled products or Washington feedstocks;

(3) Working with the departments of transportation and general administration, and other applicable state and local governmental entities and the private sector, to ensure the development of biofuel fueling stations for use by state and local governmental motor vehicle fleets, and to provide greater availability of public biofuel fueling stations for use by state and local governmental motor vehicle fleets;

(4) Coordinating with the Western Washington University alternative automobile program for opportunities to support new

Washington state technology for conversion of fossil fuel fleets to biofuel, hybrid, or alternative fuel propulsion;

(5) Coordinating with the University of Washington's college of forest management and the Olympic natural resources center for the identification of barriers to using the state's forest resources for fuel production, including the economic and transportation barriers of physically bringing forest biomass to the market;

(6) Coordinating with the department of agriculture and Washington State University for the identification of other barriers for future biofuels development and development of strategies for furthering the penetration of the Washington state fossil fuel market with Washington produced biofuels, particularly among public entities.

Sec. 5. RCW 43.325.040 and 2007 c 348 s 305 are each amended to read as follows:

(1) The energy freedom account is created in the state treasury. All receipts from appropriations made to the account and any loan payments of principal and interest derived from loans made under ((~~this chapter~~)) the energy freedom account 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 financial assistance for further funding for projects consistent with this chapter or otherwise authorized by the legislature.

(2) The green energy incentive account is created in the state treasury as a subaccount of the energy freedom account. All receipts from appropriations made to the green energy incentive account shall be deposited into the account, and may be spent only after appropriation. Expenditures from the account may be used only for:

(a) Refueling projects awarded under this chapter;

(b) Pilot projects for plug-in hybrids, including grants provided for the electrification program set forth in RCW 43.325.110; and

(c) Demonstration projects developed with state universities as defined in RCW 28B.10.016 and local governments that result in the design and building of a hydrogen vehicle fueling station.

(3)(a) The energy recovery act account is created in the state treasury. State and federal funds may be deposited into the account and any loan payments of principal and interest derived from loans made from the energy recovery act account must be deposited into the account. Moneys in the account may be spent only after appropriation.

(b) Expenditures from the account may be used only for loans, loan guarantees, and grants that encourage the establishment of innovative and sustainable industries for renewable energy and energy efficiency technology, including but not limited to:

(i) Renewable energy projects or programs that require interim financing to complete project development and implementation;

(ii) Companies with innovative, near-commercial or commercial, clean energy technology; and

(iii) Energy efficiency technologies that have a viable repayment stream from reduced utility costs.

(c) The director shall establish policies and procedures for processing, reviewing, and approving applications for funding under this section. When developing these policies and procedures, the department must consider the clean energy leadership strategy developed under section 2, chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009.

(d) The director shall enter into agreements with approved applicants to fix the term and rates of funding provided from this account.

(e) The policies and procedures of this subsection (3) do not apply to assistance awarded for projects under RCW 43.325.020(3).

(4) Any state agency receiving funding from the energy freedom account is prohibited from retaining greater than three percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce unless this provision is waived in writing by the director.

(((~~(4)~~))) (5) Any university, institute, or other entity that is not a state agency receiving funding from the energy freedom account is prohibited from retaining greater than fifteen percent of any funding provided from the energy freedom account for administrative overhead or other deductions not directly associated with conducting the research, projects, or other end products that the funding is designed to produce.

(((~~(5)~~))) (6) Subsections (2) ((~~through~~)), (4) and (5) of this section do not apply to assistance awarded for projects under RCW 43.325.020(3).

Sec. 6. RCW 43.325.070 and 2007 c 348 s 303 are each amended to read as follows:

(1) If the total requested dollar amount of assistance awarded for projects under RCW 43.325.020(3) exceeds the amount available in the energy freedom account created in RCW 43.325.040, the applications must be prioritized based upon the following criteria:

(a) The extent to which the project will help reduce dependence on petroleum fuels and imported energy either directly or indirectly;

(b) The extent to which the project will reduce air and water pollution either directly or indirectly;

(c) The extent to which the project will establish a viable bioenergy or biofuel production capacity, energy efficiency, renewable energy, or innovative energy technology industry in Washington;

(d) The benefits to Washington's agricultural producers;

(e) The benefits to the health of Washington's forests;

(f) The beneficial uses of biogas; ((~~and~~))

(g) The number and quality of jobs and economic benefits created by the project; and

(h) Other criteria as determined by the clean energy leadership council created in section 2, chapter . . . (Substitute Senate Bill No. 5921), Laws of 2009.

(2) This section does not apply to grants or loans awarded for refueling projects under RCW 43.325.020 (4) and (5).

Sec. 7. RCW 43.84.092 and 2008 c 106 s 3 are each amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, The Evergreen State College capital projects account, the federal forest revolving account, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the health services account, the public health services account, the health system capacity account, the personal health services account, the state higher education construction account, the higher education construction account, the highway infrastructure account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public works assistance account, the Puyallup tribal settlement account, the real estate appraiser commission account, the regional mobility grant program account, the resource management cost account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 8. RCW 43.84.092 and 2008 c 128 s 19 and 2008 c 106 s 4 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall

not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense 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account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. Sec. 9. Section 8 of this act takes effect July 1, 2009.

NEW SECTION. Sec. 10. (1) Sections 2, 3, 5, and 6 of this act expire June 30, 2016.

(2) Section 7 of this act expires July 1, 2009.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, or safety, or

support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 43.325.010, 43.325.020, 43.325.030, 43.325.040, 43.325.070, and 43.84.092; reenacting and amending RCW 43.84.092; creating a new section; providing an effective date; providing expiration dates; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2289 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives McCoy and Warnick spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2289, as amended by the Senate.

MOTION

On motion of Representative Hinkle, Representative Ericksen was excused.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2289, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 92; Nays, 4; Absent, 0; Excused, 2.

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

Voting nay: Representatives Condotta, Klippert, McCune and Shea.

Excused: Representatives Clibborn and Ericksen.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2289, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

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

SECOND READING

HOUSE BILL NO. 2363, by Representative Linville

Temporarily suspending cost-of-living increases for educational employees.

The bill was read the second time.

There being no objection, Substitute House Bill No. 2363 was substituted for House Bill No. 2363 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2363 was read the second time.

Representative Alexander moved the adoption of amendment (821):

On page 2, beginning on line 13, strike all of subsection (d)
On page 3, beginning on line 21, strike all of subsection (e)
On page 4, beginning on line 28, strike all of subsection (e)
Renumber the remaining subsections consecutively and correct any internal references accordingly

Representative Alexander spoke in favor of the adoption of the amendment.

Representative Haigh spoke against the adoption of the amendment.

Amendment (821) was not adopted.

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

Representatives Linville, Priest, Haigh and Cox spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2363.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2363 and the bill passed the House by the following vote: Yeas, 84; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Blake, Carlyle, Chandler, Chase, Cody, Condotta, Conway, Cox, Crouse, Dammeier, Darneille, DeBolt, Dickerson, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Haler, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jacks, Johnson, Kagi, Kelley, Kenney, Kessler, Kirby, Klippert, Kretz, Kristiansen, Liias, Linville, Maxwell, McCoy,

Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Orcutt, Orwall, Parker, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Seaquist, Shea, Short, Smith, Springer, Sullivan, Takko, Taylor, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker.

Voting nay: Representatives Campbell, Driscoll, Grant-Herriot, Hope, McCune, Ormsby, Probst, Sells, Simpson, Upthegrove, White and Williams.

Excused: Representatives Clibborn and Ericksen.

SUBSTITUTE HOUSE BILL NO. 2363, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 16, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1619 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.320.330 and 2007 c 503 s 2 and 2007 c 129 s 2 are each reenacted and amended to read as follows:

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1) A general fund for maintenance and operation of the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320, and state forest revenues transferred pursuant to subsection (3) of this section.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation((~~, including the~~)) and replacement of facilities and systems where periodical repairs are no longer economical or extend the useful life of the facility or system beyond its original planned useful life. ((~~Major~~)) Such renovation and replacement shall include, but shall not be limited to, major repairs, exterior painting of facilities, replacement and refurbishment of roofing, exterior walls, windows, heating and ventilating systems, floor covering in classrooms and public or common areas, and electrical and plumbing systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(f)(i) Costs associated with implementing technology systems, facilities, and projects, including acquiring hardware, licensing software, and online applications and training related to the installation of the foregoing. However, the software or applications must be an integral part of the district's technology systems, facilities, or projects.

(ii) Costs associated with the application and modernization of technology systems for operations and instruction including, but not limited to, the ongoing fees for online applications, subscriptions, or software licenses, including upgrades and incidental services, and ongoing training related to the installation and integration of these products and services. However, to the extent the funds are used for the purpose under this subsection (2)(f)(ii), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations.

(g) Major equipment repair, painting of facilities, and other major preventative maintenance purposes. Funds used for this purpose may not supplant routine annual preventive maintenance expenditures made from the district's general fund. However, to the extent the funds are used for the purpose under this subsection (2)(g), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW. State forest land revenues that are deposited in a school district's debt service fund pursuant to RCW 79.64.110 and to the extent not necessary for payment of debt service on school district bonds may be transferred by the school district into the district's capital projects fund.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW.

Sec. 2. RCW 84.52.053 and 2007 c 129 s 3 are each amended to read as follows:

(1) The limitations imposed by RCW 84.52.050 through 84.52.056, and 84.52.043 shall not prevent the levy of taxes by

school districts, when authorized so to do by the voters of such school district in the manner and for the purposes and number of years allowable under Article VII, section 2(a) of the Constitution of this state. Elections for such taxes shall be held in the year in which the levy is made or, in the case of propositions authorizing two-year through four-year levies for maintenance and operation support of a school district, authorizing two-year levies for transportation vehicle funds established in RCW 28A.160.130, or authorizing two-year through six-year levies to support the construction, modernization, or remodeling of school facilities, which includes the purposes of RCW 28A.320.330(2) (f) and (g), in the year in which the first annual levy is made.

(2) Once additional tax levies have been authorized for maintenance and operation support of a school district for a two-year through four- year period as provided under subsection (1) of this section, no further additional tax levies for maintenance and operation support of the district for that period may be authorized. For the purpose of applying the limitation of this subsection, a two-year through six-year levy to support the construction, modernization, or remodeling of school facilities shall not be deemed to be a tax levy for maintenance and operation support of a school district.

(3) A special election may be called and the time therefor fixed by the board of school directors, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no"."

On page 1, line 2 of the title, after "districts;" strike the remainder of the title and insert "amending RCW 84.52.053; and reenacting and amending RCW 28A.320.330."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House did not concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1619 and asked the Senate to recede therefrom.

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1332 with the following amendments:

(1332-S AMS JARR S3091.1)

On page 2, line 13, after "RCW 8.25.290;" strike "and"

On page 2, line 16, after "condemnation" insert "; and

(c) With any city that is not a member of the watershed management partnership and that has water or sewer service areas within one-half mile of Lake Tapps or water or sewer service areas within five miles upstream from Lake Tapps along the White river, enter into an interlocal agreement to allow eminent domain within that city prior to exercising authority under this section"

(1332-s AMS CARR KIRC 013)

On page 2, line 16, after "condemnation" strike "." and insert "; and

(c) Obtain authorization from the city, town, or county with jurisdiction over the subject property after the legislative authority of the city, town, or county has passed an ordinance requiring that property be taken for public use."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in Senate amendment (1332-S AMS JARR S3091.1) to SUBSTITUTE HOUSE BILL NO. 1332 but refused to concur in Senate amendment (1332-S AMS CARR KIRC 013) and asked the Senate to receded therefrom.

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1347 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.300.450 and 2004 c 247 s 2 are each amended to read as follows:

(1) A financial ((~~literacy~~)) education public-private partnership is established, composed of ((~~up to four members representing the legislature, one from and appointed by the office of the superintendent of public instruction, one from and appointed by the department of financial institutions, up to four from the financial services sector, and four educators. One or two members of the senate, one of whom is a member of the senate committee on financial services, insurance and housing, shall be appointed by the president of the senate. One or two members of the house of representatives, one of whom is a member of the house committee on financial institutions and insurance, shall be appointed by the speaker of the house of representatives. The superintendent of public instruction shall appoint the members from the financial services sector and educator members.~~)) the following members:

(a) Four members of the legislature, with one member from each caucus of the house of representatives appointed by the speaker of the house of representatives, and one member from each caucus of the senate appointed by the president of the senate;

(b) Four representatives from the private for-profit and nonprofit financial services sector, including at least one representative from the jumpstart coalition, to be appointed by the governor;

(c) Four teachers to be appointed by the superintendent of public instruction, with one each representing the elementary, middle, secondary, and postsecondary education sectors;

(d) A representative from the department of financial institutions to be appointed by the director;

(e) Two representatives from the office of the superintendent of public instruction, with one involved in curriculum development and one involved in teacher professional development, to be appointed by the superintendent.

(2) The chair of the partnership shall be selected by the members of the partnership from among the legislative members.

(((~~(2)~~))) (3) To the extent funds are appropriated or are available for this purpose, the partnership may hire a staff person who shall reside in the office of the superintendent of public instruction for administrative purposes. Additional technical and logistical support may be provided by the office of the superintendent of public instruction, the department of financial institutions, the organizations composing the partnership, and other participants in the financial ((~~literacy~~)) education public-private partnership. ((~~The superintendent of public instruction shall compile the initial list of members and convene the first meeting of the partnership.~~

~~(3)~~)) (4) The members of the ((~~committee~~)) partnership shall be appointed by ((~~July 1, 2004~~)) August 1, 2009.

(((~~(4)~~))) (5) Legislative members of the partnership shall receive per diem and travel under RCW 44.04.120.

(((~~(5)~~))) (6) Travel and other expenses of members of the partnership shall be provided by the agency, association, or organization that member represents.

(7) This section shall be implemented to the extent funds are available.

Sec. 2. RCW 28A.300.460 and 2007 c 459 s 2 are each amended to read as follows:

(1) The task of the financial ((~~literacy~~)) education public-private partnership is to seek out and determine the best methods of equipping students with the knowledge and skills they need, before they become self-supporting, in order for them to make critical decisions regarding their personal finances. The components of personal financial ((~~literacy examined~~)) education shall include((~~, at a minimum, consumer financial education, personal finance, and personal credit. The partnership shall identify the types of outcome measures expected from participating districts and students, in accordance with the definitions and outcomes developed under RCW 28A.300.455~~)) the achievement of skills and knowledge necessary to make informed judgments and effective decisions regarding earning, spending, and the management of money and credit.

(2) In carrying out its task, and to the extent funds are available, the partnership shall:

(a) Communicate to school districts the financial education standards adopted under section 3 of this act, other important financial education skills and content knowledge, and strategies for expanding the provision and increasing the quality of financial education instruction;

(b) Review on an ongoing basis financial education curriculum that is available to school districts, including instructional materials and programs and schoolwide programs that include the important financial skills and content knowledge;

(c) Develop evaluation standards and a procedure for endorsing financial education curriculum that the partnership determines should be recommended for use in school districts;

(d) Identify assessments and outcome measures that schools and communities may use to determine whether students have met the financial education standards adopted under section 3 of this act;

(e) Monitor and provide guidance for professional development for educators regarding financial education, including ways that teachers at different grade levels may integrate financial skills and content knowledge into mathematics, social studies, and other course content areas;

(f) Work with the office of the superintendent of public instruction and the professional educator standards board to create professional development that could lead to a certificate endorsement or other certification of competency in financial education;

(g) Develop academic guidelines and standards-based protocols for use by classroom volunteers who participate in delivering financial education to students in the public schools; and

(h) Provide an annual report beginning December 1, 2009, as provided in section 4 of this act, to the governor, the superintendent of public instruction, and the committees of the legislature with oversight over K-12 education and higher education.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.300 RCW to read as follows:

(1) Subject to funds appropriated specifically for this purpose, the office of the superintendent of public instruction and the financial education public-private partnership shall provide technical assistance and grants to support demonstration projects for district-wide adoption and implementation of the financial education learning standards under this section.

(2) School districts may apply on a competitive basis to participate as a demonstration project. The office and the partnership shall select up to four school districts as demonstration projects, with two districts located in eastern Washington and two districts located in western Washington, if possible.

(3) Selected districts must:

(a) Adopt the jumpstart coalition national standards in K-12 personal finance education as the essential academic learning requirements for financial education and provide students with an opportunity to master the standards;

(b) Make a commitment to integrate financial education into instruction at all grade levels and in all schools in the district;

(c) Establish local partnerships within the community to promote financial education in the schools; and

(d) Conduct pre- and post-testing of students' financial literacy.

(4) The office of the superintendent of public instruction, with the advice of the financial education public-private partnership, shall provide assistance to the demonstration projects regarding curriculum, professional development, and innovative instructional programs to implement the financial education standards.

(5) The selected districts must report findings and results of the demonstration project to the office of the superintendent of public instruction and appropriate committees of the legislature by April 30, 2011.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.300 RCW to read as follows:

The annual report from the financial education public-private partnership, provided funds are available, shall include:

(1) Results from the jumpstart survey of personal financial literacy;

(2) Progress toward statewide adoption of financial education standards by school districts;

(3) Professional development activities related to equipping teachers with the knowledge and skills to teach financial education;

(4) Activities related to financial education curriculum development; and

(5) Any recommendations for policies or other activities to support financial education instruction in public schools.

Sec. 5. RCW 28A.300.465 and 2004 c 247 s 6 are each amended to read as follows:

The Washington financial ((~~literacy~~)) education public-private partnership account is hereby created in the custody of the state treasurer. The purpose of the account is to support the financial ((~~literacy~~)) education public-private partnership, and to provide financial ((~~literacy~~)) education opportunities for students and financial ((~~literacy~~)) education professional development opportunities for the teachers providing those educational

opportunities. Revenues to the account may include gifts from the private sector, federal funds, and any appropriations made by the legislature or other sources. Grants and their administration shall be paid from the account. Only the superintendent of public instruction or the superintendent's designee may authorize expenditures from the account, and only at the direction of the partnership. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 6. The following acts or parts of acts are each repealed:

1.1.1.1. RCW 28A.300.455 (Financial literacy public-private partnership responsibilities--Definition of financial literacy--Strategies-- Reports) and 2007 c 459 s 1, 2005 c 277 s 2, & 2004 c 247 s 3;

1.1.1.2. RCW 28A.300.470 (Financial literacy public-private partnership--Expiration) and 2007 c 459 s 4 & 2004 c 247 s 7; and

1.1.1.3. RCW 28A.230.205 (Financial literary skills--Duties of the superintendent of public instruction and of school districts) and 2007 c 459 s 3."

On page 1, line 1 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28A.300.450, 28A.300.460, and 28A.300.465; adding new sections to chapter 28A.300 RCW; and repealing RCW 28A.300.455, 28A.300.470, and 28A.230.205."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1347 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1347, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1347, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 78; Nays, 20; Absent, 0; Excused, 0.

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

Voting nay: Representatives Alexander, Angel, Armstrong, Bailey, Chandler, Condotta, Crouse, Dammeier, DeBolt, Haler, Hinkle, Johnson, Klippert, Kristiansen, Pearson, Ross, Shea, Smith, Taylor and Warnick.

SUBSTITUTE HOUSE BILL NO. 1347, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 17, 2009

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1919 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec.** 1. RCW 70.96A.350 and 2008 c 329 s 918 are each amended to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance abuse treatment and treatment support services for offenders with an addiction or a substance abuse problem that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; (b) the provision of drug and alcohol treatment services and treatment support services for nonviolent offenders within a drug court program; ((and)) (c) the administrative and overhead costs associated with the operation of a drug court; and (d) during the 2007-2009 biennium, operation of the integrated crisis response and intensive case management pilots contracted with the department of social and health services division of alcohol and substance abuse. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance abuse treatment program, but does not include the following services: Housing other than that provided as part of an inpatient substance abuse treatment program, vocational training, and mental health counseling; and

(b) "Treatment support" means transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Funds transferred to the account pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) For the fiscal biennium beginning July 1, 2003, the state treasurer shall transfer eight million nine hundred fifty thousand dollars from the general fund into the criminal justice treatment account, divided into eight equal quarterly payments. For the fiscal year beginning July 1, 2005, and each subsequent fiscal year, the state treasurer shall transfer eight million two hundred fifty thousand dollars from the general fund to the criminal justice treatment account, divided into four equal quarterly payments. For the fiscal year beginning July 1, 2006, and each subsequent fiscal year, the amount transferred shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(b) For the fiscal biennium beginning July 1, 2003, and each biennium thereafter, the state treasurer shall transfer two million nine hundred eighty-four thousand dollars from the general fund into the violence reduction and drug enforcement account, divided into eight quarterly payments. The amounts transferred pursuant to this subsection (4)(b) shall be used solely for providing drug and alcohol treatment services to offenders confined in a state correctional facility who are assessed with an addiction or a substance abuse problem that if not treated would result in addiction.

(c) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (a) of this subsection to the division of alcohol and substance abuse for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the division of alcohol and substance abuse from the criminal justice treatment account shall be distributed as specified in this subsection. The department shall serve as the fiscal agent for purposes of distribution. Until July 1, 2004, the department may not use moneys appropriated from the criminal justice treatment account for administrative expenses and shall distribute all amounts appropriated under subsection (4)(c) of this section in accordance with this subsection. Beginning in July 1, 2004, the department may retain up to three percent of the amount appropriated under subsection (4)(c) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the division from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The division of alcohol and substance abuse, in consultation with the department of corrections, the sentencing guidelines commission, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance abuse treatment providers, and any other person deemed by the division to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the division from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The division shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, substance abuse treatment providers, and the division. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The funds shall be used solely to provide approved alcohol and substance abuse treatment pursuant to RCW 70.96A.090, ((and)) treatment support services, and for the administrative and overhead costs associated with the operation of a drug court.

(a) No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent on the administrative and overhead costs associated with the operation of a drug court.

(b) No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) Counties must meet the criteria established in RCW 2.28.170(3)(b).

(10) The authority under this section to use funds from the criminal justice treatment account for the administrative and overhead costs associated with the operation of a drug court expires June 30, 2013.

Sec. 2. RCW 2.28.170 and 2006 c 339 s 106 are each amended to read as follows:

(1) Counties may establish and operate drug courts.

(2) For the purposes of this section, "drug court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and substance abuse among nonviolent, substance abusing felony and nonfelony offenders, whether adult or juvenile, by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a drug court program must first:

(i) Exhaust all federal funding that is available to support the operations of its drug court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for drug court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for drug court operations and associated services. However, from the effective date of this act until June 30, 2013, no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a drug court pursuant to RCW 70.96A.350.

(b) Any county that establishes a drug court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The drug court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from substance abuse treatment;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) During which the defendant used a firearm; or

(D) During which the defendant caused substantial or great bodily harm or death to another person."

On page 1, line 1 of the title, after "funding;" strike the remainder of the title and insert "and amending RCW 70.96A.350 and 2.28.1701"

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1919 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Kagi and Dammeier spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1919, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1919, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

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

SUBSTITUTE HOUSE BILL NO. 1919, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 16, 2009

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1986 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** The legislature finds that peer mentoring provides tangible and long-lasting opportunities for all students, especially for low-income students, students of color, and first generation students. These benefits include improved student achievement and planning for success in postsecondary education. The legislature further finds that mentoring increases the self-worth of both mentees and mentors, while cultivating opportunities to improve communication skills and develop and enhance leadership and other critical transferable skills. Furthermore, the legislature finds that mentorship provides a valuable opportunity to increase student interest in career opportunities in the counseling and teaching professions, and thus intends to support those efforts to the maximum extent possible.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.12 RCW to read as follows:

(1) Western Washington University shall create and implement a pilot mentoring program to inspire academic success and introduce elementary students to educational opportunities. In addition to establishing a pilot project on its own campus, the university, in close collaboration with the state board for community and technical colleges, shall jointly identify a community or technical college to participate in the pilot program. The community or technical college selected shall demonstrate active partnerships with interested common schools, local businesses, and community organizations. Western Washington University and the state board for community and technical colleges shall identify the community or technical college by August 1, 2009.

(2) The state board for community and technical colleges shall work in close collaboration with Western Washington University to identify a community or technical college to participate in the pilot mentoring program.

(3) The goals of the pilot project are to:

(a) Encourage at-risk elementary school students to complete high school and attend college, boosting the percentage of Washington students who continue onto college;

(b) Provide positive role models for at-risk students and allow college students the opportunity to perform community service;

(c) Strengthen relationships between the community, the university, and area youth;

(d) Introduce at-risk students to college and provide them an opportunity to experience their public colleges and universities;

(e) Increase the number of youth who view going to college as both necessary and achievable; and

(f) Develop a model that is scalable statewide.

(4) Within existing resources, the pilot institutions shall:

(a) Recruit college students interested in serving as mentors to elementary school students;

(b) Identify local elementary schools with demonstrated need for a mentoring program;

(c) Develop a curriculum used for training college mentors. The college may grant college-level credit to students who complete the course;

(d) Develop any necessary contracts or interagency agreements to facilitate program implementation;

(e) Provide ongoing support and oversight of the program;

(f) Solicit grants, awards, and gifts from individuals, businesses, agencies, and foundations;

(g) Provide community outreach and publicity for the program;

(h) Develop appropriate outcome measures and evaluate the program at regular intervals;

(i) Together with the state board for community and technical colleges and in close collaboration with other community and institutional partners, submit to the legislature:

(i) A preliminary progress report by December 1, 2010, that includes a review of preliminary findings from the pilot project, recommendations regarding the resources necessary to expand the model statewide, and a process and timeline for statewide implementation; and

(ii) A final report, updating the findings from the preliminary report, by December 1, 2011."

On page 1, line 1 of the title, after "mentoring;" strike the remainder of the title and insert "adding a new section to chapter 28B.12 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1986 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

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

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1986, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 1986, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

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

ENGROSSED HOUSE BILL NO. 1986, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 16, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2035 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** 2008 c 230 s 4 (uncodified) is amended to read as follows:

(1) The sex offender policy board, as created by chapter . . . (Substitute Senate Bill No. 6596), Laws of 2008, shall review and make recommendations for changes to the statutory requirements relating to sex offender and kidnapping offender registration and notification. The review and recommendations shall include, but are not limited to:

(a) The appropriate class of felony and sentencing designations for a conviction of the failure to register;

(b) The appropriate groups and classes of adult offenders who should be required to register;

(c) The appropriate groups and classes of juvenile offenders who should be required to register;

(d) When a sex offender or kidnapping offender should be relieved of registration or notification requirements and the process for termination of those obligations; ((~~and~~))

(e) Simplification of the statutory language to allow the department of corrections, law enforcement, and offenders to more easily identify registration and notification requirements; and

(f) The appropriate groups and classes of adult, and juvenile, if any, offenders who should be required to submit their electronic mail address or any other internet communication name or identity including, but not limited to, instant message, chat, or social networking names or identities, and the uniform resource locator of any personal web site created or operated by the person, for purposes of monitoring potentially inappropriate online behavior, and the appropriate sanctions for failure to provide such information in a timely and accurate manner, as well as any other issues associated with establishing and implementing such a requirement.

(2) In formulating its recommendations, the board shall review the experience of other jurisdictions and any available evidence-based research to ensure that its recommendations have the maximum impact on public safety.

(3) The board shall report to the governor and the relevant committees of the legislature no later than November 1, 2009."

On page 1, line 3 of the title, after "operate;" strike the remainder of the title and insert "and amending 2008 c 230 s 4 (uncodified)."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2035 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL

AS SENATE AMENDED

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

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2035, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2035, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

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

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2035, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

April 16, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2227 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** FINDINGS. The legislature finds that the 2009 American recovery and reinvestment act includes new investments in research and development for green industries, renewable energy production, and incentives for installation and use of renewable energy and energy efficiency retrofits. The legislature further finds that state level initiatives include additional incentives for installation of renewable energy and energy efficiency retrofits. These initiatives include new incentives for production of renewable energy that will encourage the state to use renewable energy as well as become a major supplier of renewable energy to the world.

The legislature believes that these investments and initiatives will significantly increase demand for production of renewable energy and installation of energy efficiency retrofits. The legislature recognizes that these demands will cultivate job opportunities for Washington state residents during economic downturns as such investments are particularly valuable during those times. The legislature also finds that the state's residents and economy may be unable to take full advantage of these opportunities if there is a shortage of workers with the skills needed for jobs in renewable energy and energy efficiency.

Further, the legislature finds that the current state and federal economic climate lends itself to the acceleration of the greening of the Washington economy, and presents an opportunity for Washington to take its place as a leader in the green economy of the future. The legislature recognizes that in order to most efficiently and effectively capture and use existing and new funding streams and ensure that Washington does in fact become a leader in the green economy, the use of stimulus funds must be monitored to ensure that local organizations participating in the programs receive the state support they need.

Therefore, the legislature intends that Washington state accelerate the greening of its economy by creating a highly skilled green jobs workforce by emphasizing green jobs skills within existing education and training funds through the evergreen jobs initiative. The legislature intends to establish the evergreen jobs initiative to ensure that the state's workforce is prepared for the new green economy; the state attracts investment and job creation in the green economy; the state is a net exporter of green industry products and services, with special attention to renewable energy technology and components; and Washington is a national and world leader in the green economy.

To achieve these ends, the evergreen jobs initiative will create a comprehensive and responsive framework to assist Washington in receiving at least a per capita share of federal stimulus funds and to ensure that state and local agencies and organizations receive the institutional support they need to capture and effectively use those funds.

NEW SECTION. Sec. 2. EVERGREEN JOBS INITIATIVE. The Washington state evergreen jobs initiative is established as a comprehensive green economy jobs growth initiative with the goals of:

(1) Creating fifteen thousand new green economy jobs by 2020, with a target of thirty percent of those jobs going to veterans, members of the national guard, and low-income and disadvantaged populations;

(2) Capturing and deploying federal funds in a focused, effective, and coordinated manner;

(3) Preparing the state's workforce to take full advantage of green economy job opportunities and to meet the recruitment and training needs of industry and small businesses;

(4) Attracting private sector investment that will create new and expand existing jobs, with an emphasis on services and products that have a high economic or environmental impact and can be exported domestically and internationally;

(5) Making Washington state a net exporter of green industry products and services, with special attention to renewable energy technology and components;

(6) Empowering local agencies and organizations to recruit green economy businesses and jobs into the state by providing state support and assistance;

(7) Capitalizing on existing partnership agreements in the Washington works plan and the Washington workforce compact; and

(8) Operating in concert with the fourteen guiding principles identified by the department in its Washington state's green economy strategic framework.

NEW SECTION. Sec. 3. EVERGREEN JOBS LEADERSHIP TEAM. The department and the workforce board must create the evergreen jobs leadership team, consisting of, at a minimum, the workforce board, the economic development commission, the state board for community and technical colleges, the employment security

department, the Washington state apprenticeship training council, the office of the superintendent of public instruction, labor, business, at least one representative of a local workforce development council, and other agencies or organizations as may be necessary. This leadership team may be an extension of an existing working group. The leadership team shall be chaired by a currently employed full-time equivalent person within the office of financial management designated by the governor as the single point of accountability for all energy and climate change initiatives within state agencies.

NEW SECTION. Sec. 4. EVERGREEN JOBS LEADERSHIP TEAM DUTIES. (1) The department and the workforce board, in consultation with the leadership team, must:

(a) Coordinate efforts across the state to ensure that federal training and education funds are captured and deployed in a focused and effective manner in order to support green economy projects and accomplish the goals of the evergreen jobs initiative;

(b) Accelerate and coordinate efforts by state and local organizations to identify, apply for, and secure all sources of funds, particularly those created by the 2009 American recovery and reinvestment act, and to ensure that distributions of funding to local organizations are allocated in a manner that is time-efficient and user-friendly for the local organizations. Local organizations eligible to receive support include but are not limited to:

(i) Associate development organizations;

(ii) Workforce development councils;

(iii) Public utility districts; and

(iv) Community action agencies;

(c) Support green economy projects at both the state and local level by developing a process and a framework to provide, at a minimum:

(i) Administrative and technical assistance;

(ii) Assistance with and expediting of permit processes; and

(iii) Priority consideration of opportunities leading to exportable green economy goods and services, including renewable energy technology;

(d) Coordinate local and state implementation of projects using federal funds to ensure implementation is time-efficient and user-friendly for local organizations;

(e) Emphasize through both support and outreach efforts, projects that:

(i) Have a strong and lasting economic or environmental impact;

(ii) Lead to a domestically or internationally exportable good or service, including renewable energy technology;

(iii) Create training programs leading to a credential, certificate, or degree in a green economy field;

(iv) Strengthen the state's competitiveness in a particular sector or cluster of the green economy;

(v) Create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations;

(vi) Comply with prevailing wage provisions of chapter 39.12 RCW;

(vii) Ensure at least fifteen percent of labor hours are performed by apprentices;

(f) Identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270;

(g) Identify statewide performance metrics for projects receiving agency assistance. Such metrics may include:

(i) The number of new green jobs created each year, their wage levels, and, to the extent determinable, the percentage of new green jobs filled by veterans, members of the national guard, and low-income and disadvantaged populations;

(ii) The total amount of new federal funding secured, the respective amounts allocated to the state and local levels, and the timeliness of deployment of new funding by state agencies to the local level;

(iii) The timeliness of state deployment of funds and support to local organizations; and

(iv) If available, the completion rates, time to completion, and training-related placement rates for green economy postsecondary training programs;

(h) Identify strategies to allocate existing and new funding streams for green economy workforce training programs and education to emphasize those leading to a credential, certificate, or degree in a green economy field;

(i) Identify and implement strategies to allocate existing and new funding streams for workforce development councils and associate development organizations to increase their effectiveness and efficiency and increase local capacity to respond rapidly and comprehensively to opportunities to attract green jobs to local communities;

(j) Develop targeting criteria for existing investments that are consistent with the economic development commission's economic development strategy and the goals of this section and sections 8, 9, and 12 of this act; and

(k) Make and support outreach efforts so that residents of Washington, particularly members of target populations, become aware of educational and employment opportunities identified and funded through the evergreen jobs act.

(2) The department and the workforce board, in consultation with the leadership team, must provide semiannual performance reports to the governor and appropriate committees of the legislature on:

(a) Actual statewide performance based on the performance measures identified in subsection (1)(g) of this section;

(b) How the state is emphasizing and supporting projects that lead to a domestically or internationally exportable good or service, including renewable energy technology;

(c) A list of projects supported, created, or funded in furtherance of the goals of the evergreen jobs initiative and the actions taken by state and local organizations, including the effectiveness of state agency support provided to local organizations as directed in subsection (1)(b) and (c) of this section;

(d) Recommendations for new or expanded financial incentives and comprehensive strategies to:

(i) Recruit, retain, and expand green economy industries and small businesses; and

(ii) Stimulate research and development of green technology and innovation, which may include designating innovation partnership zones linked to the green economy;

(e) Any information that associate development organizations and workforce development councils choose to provide to appropriate legislative committees regarding the effectiveness, timeliness, and coordination of support provided by state agencies under this section and sections 8, 9, and 12 of this act; and

(f) Any recommended statutory changes necessary to increase the effectiveness of the evergreen jobs initiative and state responsiveness to local agencies and organizations.

(3) The definitions, designations, and results of the employment security department's broader labor market research under RCW 43.330.010 shall inform the planning and strategic direction of the department, the state workforce training and education coordinating

board, the state board for community and technical colleges, and the higher education coordinating board.

Sec. 5. RCW 43.330.010 and 2007 c 322 s 2 are each amended to read as follows:

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

(1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

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

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

(4) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business in this state under state or federal law.

(5) "Microenterprise development organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or other locally operated nonprofit entity that provides services to low-income entrepreneurs.

(6) "Statewide microenterprise association" means a nonprofit entity with microenterprise development organizations as members that serves as an intermediary between the department of community, trade, and economic development and local microenterprise development organizations.

(7) "Apprentice" means an apprentice enrolled in an apprenticeship training program approved by the Washington state apprenticeship council.

(8) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities.

(9) "Labor hours" means the total hours of workers receiving an hourly wage who are directly employed on the site of the project. This includes hours performed by workers employed by the contractor and all subcontractors working on the project but does not include hours worked by foremen, superintendents, and owners.

(10) "Leadership team" means the leadership team created by the department in section 3 of this act.

(11) "State board" means the state board for community and technical colleges created in RCW 28B.50.050.

(12) "Target populations" means:

(a) Entry-level or incumbent workers who are in, or are preparing for, middle or high-wage, high-demand occupations in the green economy;

(b) Dislocated workers in declining industries who may be retrained for middle or high-wage occupations in the green economy;

(c) Eligible veterans or national guard members;

(d) Disadvantaged populations; or

(e) Anyone eligible to participate in the state opportunity grant program under RCW 28B.50.271.

(13) "Workforce board" means the workforce training and education coordinating board created in RCW 28C.18.020.

NEW SECTION. Sec. 6. EVERGREEN JOBS LOGO. The leadership team must develop a logo or sign to indicate a particular project is funded in whole or in part by Washington's evergreen jobs act or other economic recovery efforts. The department and the state board must also adopt rules requiring organizations and each project site receiving funds through the department under section 7 of this act or through the state board under section 10 of this act to prominently display such logo or sign on site and in all written materials and communications.

NEW SECTION. Sec. 7. SKILL AND QUALIFICATIONS IDENTIFICATION. (1) The leadership team, in consultation with the department, the state board, the Washington state apprenticeship and training council, and the office of the superintendent of public instruction, shall identify the necessary skills and qualifications required to perform the energy audits and energy efficiency services authorized under chapter . . ., Laws of 2009 (Engrossed Second Substitute Senate Bill No. 5649) and satisfy the goals of chapter . . ., Laws of 2009 (Substitute Senate Bill No. 5921).

(2) The leadership team, in consultation with the department, the state board, and the workforce board, shall direct the delivery of education and training resource moneys, provided in the omnibus appropriations act, to establish workforce training and apprenticeship programs to meet the demand for workers trained in energy audit and energy efficiency services and to serve the programs established in chapter . . ., Laws of 2009 (Engrossed Second Substitute Senate Bill No. 5649). Moneys must be used to fund training programs that satisfy the strategic plan developed under chapter . . ., Laws of 2009 (Substitute Senate Bill No. 5921).

(a) Training resource moneys may be provided to energy audit and energy efficiency services educational programs for the following purposes:

(i) To develop and deploy curricula and training programs in accordance with this section;

(ii) To expand existing high school, community and technical college, journey-level skills improvement and apprenticeship training programs, and community-based training programs providing energy audit and energy efficiency services training;

(iii) To implement new training programs developed under the terms of this section;

(iv) To supplement internship, preapprenticeship, and apprenticeship programs using curricula developed under this section;

(v) To recruit people into these training programs; and

(vi) For other training activities identified by the department to supplement and expand the skills of the existing workforce.

(b) The department must, in consultation with the workforce board and the leadership team, prioritize educational programs that:

(i) Provide convincing evidence that they are able to provide the requisite skills education and training expeditiously; or

(ii) Provide skills education and training services to underserved and disadvantaged communities in the state, in accordance with this section. This may include, but is not limited to, at-risk youth seeking employment pathways out of poverty and into economic self-sufficiency. The department and workforce board shall consult with the employment security department to create a strategy to ensure that the workers who receive training under these programs are provided with the type of employment opportunities contemplated by this chapter.

NEW SECTION. Sec. 8. A new section is added to chapter 28C.18 RCW to read as follows:

GREEN INDUSTRY SKILL PANELS. (1) The legislature directs the board to create and pilot green industry skill panels. These panels shall consist of business representatives from industry sectors related to clean energy, labor unions representing workers in those industries or labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers for these industries, state and local veterans agencies, employer associations, educational institutions, and local workforce development councils within the region that the panels propose to operate, and other key stakeholders as determined by the applicant. Any of these stakeholder organizations are eligible to

receive grants under this section and serve as the intermediary that convenes and leads the panel. Panel applicants must provide labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the state's clean energy economy as identified in this section, for middle or high-wage occupations, or occupations that are part of career pathways to the same, within the relevant industry sector. The panel shall, in consultation with the department and the leadership team:

(a) Conduct labor market and industry analyses, in consultation with the employment security department, and drawing on the findings of its research when available;

(b) Recommend strategies to meet the recruitment and training needs of the industry and small businesses; and

(c) Recommend strategies to leverage and align other public and private funding sources.

(2) The board may prioritize workforce training programs that lead to a credential, certificate, or degree in green economy jobs. For purposes of this section, green economy jobs include those in the primary industries of a green economy, including clean energy, high-efficiency building, green transportation, and environmental protection. Prioritization efforts may include but are not limited to: (a) Prioritization of the use of high employer-demand funding for workforce training programs in green economy jobs; (b) increased outreach efforts to public utilities, education, labor, government, and private industry to develop tailored, green job training programs; and (c) increased outreach efforts to target populations. Outreach efforts may be conducted in partnership with local workforce development councils.

(3) The definitions in RCW 43.330.010 apply to this section.

NEW SECTION. Sec. 9. A new section is added to chapter 28B.50 RCW to read as follows:

CURRICULUM DEVELOPMENT AND FUNDING. (1) The state board shall work with the leadership team, the Washington state apprenticeship and training council, and the office of the superintendent of public instruction to jointly develop, by June 30, 2010, curricula and training programs, to include on-the-job training, classroom training, and safety and health training, for the development of the skills and qualifications identified by the department of community, trade, and economic development under section 7 of this act.

(2) The board shall target a portion of any federal stimulus funding received to ensure commensurate capacity for high employer-demand programs of study developed under this section. To that end, the state board must coordinate with the department, the leadership team, the workforce board, or another appropriate state agency in the application for and receipt of any funding that may be made available through the federal youthbuild program, workforce investment act, job corps, or other relevant federal programs.

(3) The board shall provide an interim report to the appropriate committees of the legislature by December 1, 2011, and a final report by December 1, 2013, detailing the effectiveness of, and any recommendations for improving, the worker training curricula and programs established in this section.

(4) Existing curricula and training programs or programs provided by community and technical colleges in the state developed under this section must be recognized as programs of study under RCW 28B.50.273.

(5) Subject to available funding, the board may grant enrollment priority to persons who qualify for a waiver under RCW 28B.15.522 and who enroll in curricula and training programs provided by community or technical colleges in the state that have been developed in accordance with this section.

(6) The college board may prioritize workforce training programs that lead to a credential, certificate, or degree in green economy jobs. For purposes of this section, green economy jobs include those in the primary industries of a green economy including clean energy, high-efficiency building, green transportation, and environmental protection. Prioritization efforts may include but are not limited to: (a) Prioritization of the use of high employer-demand funding for workforce training programs in green economy jobs, if the programs meet minimum criteria for identification as a high-demand program of study as defined by the state board for community and technical colleges, however any additional community and technical college high-demand funding authorized for the 2009-2011 fiscal biennium and thereafter may be subject to prioritization; (b) increased outreach efforts to public utilities, education, labor, government, and private industry to develop tailored, green job training programs; and (c) increased outreach efforts to target populations. Outreach efforts shall be conducted in partnership with local workforce development councils.

(7) The definitions in RCW 43.330.010 apply to this section and section 10 of this act.

NEW SECTION. Sec. 10. A new section is added to chapter 28B.50 RCW to read as follows:

EVERGREEN JOBS TRAINING ACCOUNT. The evergreen jobs training account is created in the state treasury. Funds deposited to the account may include gifts, grants, or endowments from public or private sources, in trust or otherwise. Moneys from the account must be used to supplement the state opportunity grant program established under RCW 28B.50.271. All receipts from appropriations directed to the account must be deposited into the account. Expenditures from the account may be used only for the activities identified in this section. The state board, in consultation with the department and the leadership team, may authorize expenditures from the account but must distribute grants from the account on a competitive basis. Grant funds from the evergreen jobs training account should be used when other public or private funds are insufficient or unavailable.

(1) These grant funds may be used for, but are not limited to uses for:

(a) Curriculum development;

(b) Transitional jobs strategies for dislocated workers in declining industries who may be retrained for high-wage occupations in green industries;

(c) Workforce education to target populations;

(d) Adult basic and remedial education as necessary linked to occupation skills training; and

(e) Coordinated outreach efforts by institutions of higher education and workforce development councils.

(2) These grant funds may not be used for student assistance and support services available through the state opportunity grant program under RCW 28B.50.271.

(3) Applicants eligible to receive these grants may be any organization or a partnership of organizations that has demonstrated expertise in:

(a) Implementing effective education and training programs that meet industry demand; and

(b) Recruiting and supporting, to successful completion of those training programs carried out under these grants, the target populations of workers.

(4) In awarding grants from the evergreen jobs training account, the state board shall give priority to applicants that demonstrate the ability to:

(a) Use labor market and industry analysis developed by the employment security department and green industry skill panels in the design and delivery of the relevant education and training program, and otherwise use strategies developed by green industry skill panels;

(b) Leverage and align existing public programs and resources and private resources toward the goal of recruiting, supporting, educating, and training target populations of workers;

(c) Work collaboratively with other relevant stakeholders in the regional economy;

(d) Link adult basic and remedial education, where necessary, with occupation skills training;

(e) Involve employers and, where applicable, labor unions in the determination of relevant skills and competencies and, where relevant, the validation of career pathways; and

(f) Ensure that supportive services, where necessary, are integrated with education and training and are delivered by organizations with direct access to and experience with the targeted population of workers.

NEW SECTION. Sec. 11. A new section is added to chapter 50.12 RCW to read as follows:

LABOR MARKET RESEARCH. The employment security department, in consultation with the department, the workforce board, and the leadership team must take the following actions:

(1) Conduct and update labor market research on a biennial basis to analyze the current public and private labor market and projected job growth in the green economy, the current and projected recruitment and skill requirement of public and private green economy employers, the wage and benefits ranges of jobs within green economy industries, and the education and training requirements of entry-level and incumbent workers in those industries;

(2) Propose which industries will be considered high-demand green industries, based on current and projected job creation and their strategic importance to the development of the state's green economy; and

(3) Define which family-sustaining wage and benefits ranges within green economy industries will be considered middle or high-wage occupations and occupations that are part of career pathways to the same.

NEW SECTION. Sec. 12. A new section is added to chapter 49.04 RCW to read as follows:

APPRENTICESHIP PROGRAMS. (1) The council must evaluate the potential of existing apprenticeship and training programs that would produce workers with the skills needed to conduct energy audits and provide energy efficiency services and deliver its findings to the department of community, trade, and economic development, the leadership team, and the appropriate committees of the legislature as soon as possible, but no later than January 18, 2010.

(2) The council may prioritize workforce training programs that lead to apprenticeship programs in green economy jobs. For purposes of this section, green economy jobs include those in the primary industries of a green economy, including clean energy, the forestry industry, high-efficiency building, green transportation, and environmental protection. Prioritization efforts may include but are not limited to: (a) Prioritization of the use of high employer-demand funding for workforce training programs in green economy jobs; (b) increased outreach efforts to public utilities, education, labor, government, and private industry to develop tailored, green job training programs; and (c) increased outreach efforts to target populations. Outreach efforts shall be conducted in partnership with local workforce development councils.

(3) The definitions in RCW 43.330.010 apply to this section.

NEW SECTION. Sec. 13. PRECLUSION. Nothing in this act may be construed as a requirement for any agency to gain approval from another before allocating funding to the local level. Nothing in this act may be construed as precluding nonstate agencies from directly applying for and securing funds from the federal government. Nothing in this act may be construed as allowing agencies to require additional reporting or approval processes from local organizations or to impose unfunded mandates on local organizations.

NEW SECTION. Sec. 14. REPEALER. RCW 43.330.310 (Comprehensive green economy jobs growth initiative--Establishment--Green industries jobs training account--Creation) and 2008 c 14 s 9 are each repealed.

NEW SECTION. Sec. 15. SHORT TITLE. This act may be known and cited as the evergreen jobs act.

NEW SECTION. Sec. 16. Sections 2 through 4, 6, and 7 of this act are each added to chapter 43.330 RCW.

NEW SECTION. Sec. 17. Captions used in this act are not any part of the law."

On page 1, line 1 of the title, after "jobs;" strike the remainder of the title and insert "amending RCW 43.330.010; adding new sections to chapter 43.330 RCW; adding a new section to chapter 28C.18 RCW; adding new sections to chapter 28B.50 RCW; adding a new section to chapter 50.12 RCW; adding a new section to chapter 49.04 RCW; creating new sections; and repealing RCW 43.330.310."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

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

SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2227 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Probst, Smith and Priest spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 2227, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2227, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 76; Nays, 22; Absent, 0; Excused, 0.

Voting yea: Representatives Alexander, Anderson, Angel, Appleton, Bailey, Blake, Campbell, Carlyle, Chase, Clibborn, Cody, Conway, Cox, Dammeier, Darneille, DeBolt, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Herrera, Hope, Hudgins, Hunt, Hunter, Hurst, Jacks,

Kagi, Kelley, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Parker, Pedersen, Pettigrew, Priest, Probst, Quall, Roach, Roberts, Rodne, Rolfes, Santos, Seaquist, Sells, Simpson, Smith, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Armstrong, Chandler, Condotta, Crouse, Ericksen, Grant-Herriot, Haler, Hinkle, Johnson, Klippert, Kretz, Kristiansen, McCune, Orcutt, Pearson, Ross, Schmick, Shea, Short, Taylor, Walsh and Warnick.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2227, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

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

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5892, by Senate Committee on Ways & Means (originally sponsored by Senators Keiser and Shin)

Concerning prescription drug use in state purchased health care programs.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Ways & Means was before the House for purpose of amendment. (For committee amendment, see Journal, Day 100, April 18, 2009.)

Representative Cody moved the adoption of amendment (838) to the committee amendment:

On page 3, line 2 of the amendment, after "making." insert "Department of social and health services prior authorization programs must provide for responses within twenty-four hours and at least a seventy-two hour emergency supply of the requested drug."

Representative Cody spoke in favor of the adoption of the amendment to the committee amendment.

Amendment (838) to the committee amendment was adopted.

Representative Hinkle moved the adoption of amendment (839) to the committee amendment:

On page 3, line 13, after "(v)" strike all material through "making." on line 15, and insert "Specifically for antipsychotic drugs, a state purchased health care program will allow dispense as written if an endorsing practitioner is writing the prescription to treat food and drug administration approved indications for that medication."

Representatives Hinkle, Alexander, Herrera and Angel spoke in favor of the adoption of the amendment to the committee amendment.

Representatives Cody and Green spoke against the adoption of the amendment to the committee amendment.

Division was demanded and the demand was sustained.

The Speaker (Representative Moeller presiding) divided the House. The result was 46 – YEAS; 52 – NAYS.

Amendment (839) to the committee amendment was not adopted.

Representative Bailey moved the adoption of amendment (810) to the committee amendment:

On page 3, beginning on line 31 of the amendment, strike all of section 2

Representative Bailey spoke in favor of the adoption of the amendment to the committee amendment.

Representative Cody spoke against the adoption of the amendment to the committee amendment.

Amendment (810) to the committee amendment was not adopted.

The committee amendment as amended was adopted.

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

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

Representatives Hinkle, Klippert and Johnson spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5892, as amended by the House.

MOTION

On motion of Representative Santos, Representative Liias was excused.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5892, as amended by the House, and the bill passed the House by the following vote: Yeas, 54; Nays, 43; Absent, 0; Excused, 1.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Driscoll, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Takko, Upthegrove, Van De Wege, Wallace, White, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Morris, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross,

Schmick, Shea, Short, Smith, Sullivan, Taylor, Walsh, Warnick and Williams.

Excused: Representative Liias.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5892, as amended by the House, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on ENGROSSED SUBSTITUTE SENATE BILL NO. 5892.

JOHN DRISCOLL, 6th District

SECOND READING

HOUSE BILL NO. 2356, by Representative Haigh

Revising student achievement fund allocations.

The bill was read the second time.

There being no objection, Substitute House Bill No. 2356 was substituted for House Bill No. 2356 and the substitute bill was placed on the second reading calendar.

SUBSTITUTE HOUSE BILL NO. 2356 was read the second time.

Representative Alexander moved the adoption of amendment (820):

On page 2, beginning on line 4, after "act." strike all material through "years." on line 7

Representative Alexander spoke in favor of the adoption of the amendment.

Representative Haigh spoke against the adoption of the amendment.

Amendment (820) was not adopted.

Representative Bailey moved the adoption of amendment (809):

On page 3, beginning on line 1, strike all of section 2

Correct the title.

Representative Bailey spoke in favor of the adoption of the amendment.

Representative Haigh spoke against the adoption of the amendment.

Amendment (809) was not adopted.

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

Representatives Haigh, Priest, Cox, Rolfes and Angel spoke in favor of the passage of the bill.

Representative Herrera spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2356.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2356 and the bill passed the House by the following vote: Yeas, 50; Nays, 47; Absent, 0; Excused, 1.

Voting yea: Representatives Alexander, Angel, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Cox, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Flannigan, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Miloscia, Moeller, Morris, Nelson, O'Brien, Pedersen, Pettigrew, Priest, Quall, Roberts, Santos, Seaquist, Springer, Sullivan, Takko, Van De Wege, Wallace, White, Wood and Mr. Speaker.

Voting nay: Representatives Anderson, Appleton, Armstrong, Bailey, Campbell, Chandler, Condotta, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Goodman, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Morrell, Orcutt, Ormsby, Orwall, Parker, Pearson, Probst, Roach, Rodne, Rolfes, Ross, Schmick, Sells, Shea, Short, Simpson, Smith, Taylor, Upthegrove, Walsh, Warnick and Williams.

Excused: Representative Liias.

SUBSTITUTE HOUSE BILL NO. 2356, having received the necessary constitutional majority, was declared passed.

HOUSE BILL NO. 2358, by Representative Conway

Increasing liquor license fees limited to fees for beer and/or wine restaurants; taverns; snack bars; combined beer and wine retailers; grocery stores; beer and/or wine specialty shops; passenger trains, vessels, and airplanes; spirits, beer, and wine restaurants; spirits, beer, and wine private clubs; beer and wine private clubs; and public houses.

The bill was read the second time.

With the consent of the House, amendment (835) was withdrawn.

Representative Conway moved the adoption of amendment (793):

On page 16, after line 32, insert the following:

"**NEW SECTION. Sec**. 14. This act expires July 1, 2011."

Correct the title.

Representative Conway spoke in favor of the adoption of the amendment.

Amendment (793) was adopted.

Representative Conway moved the adoption of amendment (841):

On page 16, after line 32, insert the following:

"**NEW SECTION. Sec. 14.** A new section is added to chapter 66.08 RCW to read as follows:

Ten and a half percent of total license fee revenues collected for the following licenses established in RCW 66.24: beer and/or wine restaurants; taverns; snack bars; combined beer and wine retailers; grocery stores; beer and/or wine specialty shops; passenger trains, vessels, and airplanes; spirits, beer, and wine restaurants; spirits, beer, and wine private clubs; beer and wine private clubs; and public houses, shall be deposited in the liquor revolving fund, is not subject to the distribution specified in RCW 66.08.180, and may be expended only for purposes of the administration and enforcement of these licenses."

Correct the title.

Representative Conway spoke in favor of the adoption of the amendment.

Amendment (841) was adopted. The bill was ordered engrossed.

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

Representatives Conway, Darneille and Roberts spoke in favor of the passage of the bill.

Representatives Alexander, Schmick, Anderson, Angel, Condotta and Ericksen spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 2358.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 2358 and the bill passed the House by the following vote: Yeas, 50; Nays, 47; Absent, 0; Excused, 1.

Voting yea: Representatives Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Flannigan, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Santos, Seaquist, Sells, Simpson, Sullivan, Takko, Van De Wege, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Appleton, Armstrong, Bailey, Campbell, Carlyle, Chandler, Condotta, Cox, Crouse, Dammeier, DeBolt, Driscoll, Ericksen, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Rolfes, Ross, Schmick, Shea, Short, Smith, Springer, Taylor, Upthegrove, Wallace, Walsh and Warnick.

Excused: Representative Liias.

ENGROSSED HOUSE BILL NO. 2358, having received the necessary constitutional majority, was declared passed.

MESSAGES FROM THE SENATE

April 21, 2009

Mr. Speaker:

The President has signed the following:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5110,
SENATE BILL NO. 5120,
SUBSTITUTE SENATE BILL NO. 5199,
SUBSTITUTE SENATE BILL NO. 5248,
SUBSTITUTE SENATE BILL NO. 5270,
SUBSTITUTE SENATE BILL NO. 5286,
SUBSTITUTE SENATE BILL NO. 5318,
SECOND SUBSTITUTE SENATE BILL NO. 5346,
SUBSTITUTE SENATE BILL NO. 5401,
SUBSTITUTE SENATE BILL NO. 5501,
SENATE BILL NO.5547,
SUBSTITUTE SENATE BILL NO. 5719,
SENATE BILL NO. 5720,
SUBSTITUTE SENATE BILL NO. 5724,
SENATE BILL NO. 5731,
SUBSTITUTE SENATE BILL NO. 5738,
ENGROSSED SENATE BILL NO. 5810,
SUBSTITUTE SENATE BILL NO. 5834,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5854,
SUBSTITUTE SENATE BILL NO. 5891,
SUBSTITUTE SENATE BILL NO. 5921,
ENGROSSED SENATE BILL NO. 5925,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 21, 2009

Mr. Speaker:

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

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5560,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5649,
SUBSTITUTE SENATE BILL NO. 5931,
SECOND SUBSTITUTE SENATE BILL NO. 5945,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5967,
SENATE BILL NO. 5974,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5978,
SUBSTITUTE SENATE BILL NO. 6009,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6015,
SUBSTITUTE SENATE BILL NO. 6016,
ENGROSSED SENATE BILL NO. 6033,
SUBSTITUTE SENATE BILL NO. 6036,
SENATE BILL NO. 6070,
SUBSTITUTE SENATE BILL NO. 6088,
SUBSTITUTE SENATE BILL NO. 6095,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

SECOND READING

HOUSE BILL NO. 2331, by Representatives Darneille, Dickerson, Pettigrew, Kenney, Williams, Simpson, Nelson and Ormsby

Concerning the existing document recording fee for services for the homeless.

The bill was read the second time.

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

Representatives Darneille and Kagi spoke in favor of the passage of the bill.

Representatives Alexander, Angel, Campbell and Armstrong spoke against the passage of the bill.

POINT OF PARLIAMENTARY INQUIRY

Representative Ericksen: Mr. Speaker, as you know, we have explored the question in the past as to whether or not the extractions made over the past few years for these programs are really taxes or fees.

These document recording fees have moved in the last six years from the $5 that it actually cost to process the paper to a current amount of $42. This bill would move that cost to $62 while still providing only $5 to cover the actual cost of processing the paper.

In 2007, the Lieutenant Governor reluctantly ruled a similar recording fee increase in Engrossed Second Substitute House Bill 1359 a fee and thus requiring only a simple majority vote. However, the Lieutenant Governor warned the body that he was concerned that "the entirety of the bill's language could allow the revenue raised to be used for multiple purposes, such as providing many very worthy yet additional services that may not be directly related to housing."

And I would also note that the revenue raised by the fee increase in this bill will be transferred to the General Fund, yet another indication of a tax, not a fee.

Mr. Speaker, I know that these charges in the past have been called fees, or not general fund revenue so under the old Initiative 601 tests, not a 2/3 vote requirement. However, as the total charges continue to climb and the purposes continue to expand, have we not reached a point where these extractions become a tax, subject under I-960 to a 2/3 vote for approval?

Thank you, Mr. Speaker. "

SPEAKER'S RULING

Mr. Speaker (Representative Moeller presiding): Representative Ericksen has raised a point of parliamentary inquiry as to the number of votes needed on final passage of House Bill No. 2331. This requires a determination as to whether the funds raised in the bill constitute a fee, which may be enacted by a simple majority, or a tax, which under the provisions of Initiative 960 may be enacted only with a 2/3 supermajority vote.

The Speaker begins by noting that in 2007, the Legislature amended RCW 36.22.179 to allow the use of document recording surcharges to fund housing and shelter for homeless persons, including grants to shelters, transitional housing, partial payment for rental assistance, consolidated emergency assistance, overnight youth shelters and emergency shelter assistance.

House Bill No. 2331 increases the document recording surcharge in that statute. It does not change or expand the purposes for which the funds raised may be expended.

The question then becomes whether there is a sufficient connection between the charge imposed and these purposes. The Speaker finds that there is a logical and sufficient connection and that the charge imposed is a fee and not a tax.

While not dispositive, the Speaker notes that the President of the Senate reached the same conclusion regarding a document recording surcharge for these same purposes in a 2007 ruling.

For these reasons, the Speaker rules that a simple majority, 50 votes, is needed for final passage."

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of House Bill No. 2331.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2331 and the bill passed the House by the following vote: Yeas, 51; Nays, 44; Absent, 0; Excused, 3.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Ericks, Goodman, Green, Haigh, Hasegawa, Hunt, Hunter, Hurst, Jacks, Kagi, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Upthegrove, Van De Wege, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Dammeier, DeBolt, Driscoll, Eddy, Ericksen, Finn, Grant-Herriot, Haler, Herrera, Hinkle, Hope, Hudgins, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Takko, Taylor, Wallace, Walsh and Warnick.

Excused: Representatives Crouse, Flannigan and Liias.

HOUSE BILL NO. 2331, having received the necessary constitutional majority, was declared passed.

MESSAGES FROM THE SENATE

April 21, 2009

Mr. Speaker:

The Senate has passed:

SENATE BILL NO. 6002,
SENATE BILL NO. 6065,
SENATE BILL NO. 6126,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

April 21, 2009

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2075, and the same is herewith transmitted.

Thomas Hoemann, Secretary

The Speaker assumed the chair.

SIGNED BY THE SPEAKER

The Speaker signed the following:

SECOND SUBSTITUTE HOUSE BILL NO. 1021
SUBSTITUTE HOUSE BILL NO. 1036
ENGROSSED HOUSE BILL NO. 1087
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1123
HOUSE BILL NO. 1127
HOUSE BILL NO. 1137
HOUSE BILL NO. 1158
HOUSE BILL NO. 1166
ENGROSSED HOUSE BILL NO. 1167
HOUSE BILL NO. 1184
SUBSTITUTE HOUSE BILL NO. 1201
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1208
SUBSTITUTE HOUSE BILL NO. 1215
SUBSTITUTE HOUSE BILL NO. 1225
HOUSE BILL NO. 1295
SUBSTITUTE HOUSE BILL NO. 1300

SUBSTITUTE HOUSE BILL NO. 1309
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1326
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1349
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1362
SECOND SUBSTITUTE HOUSE BILL NO. 1373
ENGROSSED HOUSE BILL NO. 1385
HOUSE BILL NO. 1395
SUBSTITUTE HOUSE BILL NO. 1402
HOUSE BILL NO. 1433
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1445
HOUSE BILL NO. 1448
SECOND SUBSTITUTE HOUSE BILL NO. 1484
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1516
SUBSTITUTE HOUSE BILL NO. 1529
ENGROSSED HOUSE BILL NO. 1530
SUBSTITUTE HOUSE BILL NO. 1552
ENGROSSED HOUSE BILL NO. 1566
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1571
SUBSTITUTE HOUSE BILL NO. 1583
HOUSE BILL NO. 1589
HOUSE BILL NO. 1640
HOUSE BILL NO. 1717
SUBSTITUTE HOUSE BILL NO. 1740
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1741
SUBSTITUTE HOUSE BILL NO. 1749
SUBSTITUTE HOUSE BILL NO. 1769
SUBSTITUTE HOUSE BILL NO. 1778
HOUSE BILL NO. 1789
HOUSE BILL NO. 1790
SUBSTITUTE HOUSE BILL NO. 1791
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1792
SUBSTITUTE HOUSE BILL NO. 1793
SUBSTITUTE HOUSE BILL NO. 1812
SUBSTITUTE HOUSE BILL NO. 1816
ENGROSSED HOUSE BILL NO. 1824
HOUSE BILL NO. 1835
SUBSTITUTE HOUSE BILL NO. 1856
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1879
SECOND SUBSTITUTE HOUSE BILL NO. 1899
SUBSTITUTE HOUSE BILL NO. 1943
SECOND SUBSTITUTE HOUSE BILL NO. 1946
SECOND SUBSTITUTE HOUSE BILL NO. 1951
SUBSTITUTE HOUSE BILL NO. 1957
ENGROSSED HOUSE BILL NO. 1967
SUBSTITUTE HOUSE BILL NO. 2003
HOUSE BILL NO. 2014
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2021
HOUSE BILL NO. 2025
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2049
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2072
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2075
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2078
SUBSTITUTE HOUSE BILL NO. 2079
SECOND SUBSTITUTE HOUSE BILL NO. 2106
SECOND SUBSTITUTE HOUSE BILL NO. 2119
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2128
HOUSE BILL NO. 2129
HOUSE BILL NO. 2146
SUBSTITUTE HOUSE BILL NO. 2157
SUBSTITUTE HOUSE BILL NO. 2160
HOUSE BILL NO. 2199
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2222
SUBSTITUTE HOUSE BILL NO. 2223
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2261
SUBSTITUTE HOUSE BILL NO. 2287
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2289
HOUSE BILL NO. 2313
SENATE BILL NO. 5008
ENGROSSED SUBSTITUTE SENATE BILL NO. 5011
SENATE BILL NO. 5038
SUBSTITUTE SENATE BILL NO. 5040
SUBSTITUTE SENATE BILL NO. 5042
SECOND SUBSTITUTE SENATE BILL NO. 5045
SECOND SUBSTITUTE SENATE BILL NO. 5045
SUBSTITUTE SENATE BILL NO. 5056
SENATE BILL NO. 5060
ENGROSSED SUBSTITUTE SENATE BILL NO. 5110
SENATE BILL NO. 5120
SENATE BILL NO. 5153
SUBSTITUTE SENATE BILL NO. 5160
SUBSTITUTE SENATE BILL NO. 5171
SUBSTITUTE SENATE BILL NO. 5172
SENATE BILL NO. 5173
SUBSTITUTE SENATE BILL NO. 5177
SENATE BILL NO. 5180
SUBSTITUTE SENATE BILL NO. 5199
SUBSTITUTE SENATE BILL NO. 5229
SUBSTITUTE SENATE BILL NO. 5248
ENGROSSED SUBSTITUTE SENATE BILL NO. 5262
SUBSTITUTE SENATE BILL NO. 5268
SUBSTITUTE SENATE BILL NO. 5270
SUBSTITUTE SENATE BILL NO. 5273
SUBSTITUTE SENATE BILL NO. 5273
SENATE BILL NO. 5277
SUBSTITUTE SENATE BILL NO. 5286
SENATE BILL NO. 5289
SUBSTITUTE SENATE BILL NO. 5318
SUBSTITUTE SENATE BILL NO. 5340
SECOND SUBSTITUTE SENATE BILL NO. 5346
SENATE BILL NO. 5355
SUBSTITUTE SENATE BILL NO. 5360
SUBSTITUTE SENATE BILL NO. 5367
SUBSTITUTE SENATE BILL NO. 5368
SUBSTITUTE SENATE BILL NO. 5401
SUBSTITUTE SENATE BILL NO. 5402
SUBSTITUTE SENATE BILL NO. 5410
ENGROSSED SUBSTITUTE SENATE BILL NO. 5414
SENATE BILL NO. 5452
SENATE BILL NO. 5452
SUBSTITUTE SENATE BILL NO. 5461
SUBSTITUTE SENATE BILL NO. 5461
SUBSTITUTE SENATE BILL NO. 5468
SUBSTITUTE SENATE BILL NO. 5468
ENGROSSED SUBSTITUTE SENATE BILL NO. 5473
ENGROSSED SUBSTITUTE SENATE BILL NO. 5473
SENATE BILL NO. 5482
SENATE BILL NO. 5482
SUBSTITUTE SENATE BILL NO. 5501
SUBSTITUTE SENATE BILL NO. 5504
SUBSTITUTE SENATE BILL NO. 5504
SUBSTITUTE SENATE BILL NO. 5509
SUBSTITUTE SENATE BILL NO. 5509
ENGROSSED SUBSTITUTE SENATE BILL NO. 5513
ENGROSSED SUBSTITUTE SENATE BILL NO. 5513
SUBSTITUTE SENATE BILL NO. 5531
SUBSTITUTE SENATE BILL NO. 5539
SUBSTITUTE SENATE BILL NO. 5539
SENATE BILL NO. 5540
SENATE BILL NO. 5540
SENATE BILL NO. 5547
SUBSTITUTE SENATE BILL NO. 5556
SUBSTITUTE SENATE BILL NO. 5556
SUBSTITUTE SENATE BILL NO. 5561
SUBSTITUTE SENATE BILL NO. 5561
SUBSTITUTE SENATE BILL NO. 5565
SUBSTITUTE SENATE BILL NO. 5565
SUBSTITUTE SENATE BILL NO. 5566
SUBSTITUTE SENATE BILL NO. 5566

SENATE BILL NO. 5568
ENGROSSED SUBSTITUTE SENATE BILL NO. 5583
ENGROSSED SUBSTITUTE SENATE BILL NO. 5583
ENGROSSED SUBSTITUTE SENATE BILL NO. 5601
ENGROSSED SUBSTITUTE SENATE BILL NO. 5601
SUBSTITUTE SENATE BILL NO. 5608
SUBSTITUTE SENATE BILL NO. 5608
SUBSTITUTE SENATE BILL NO. 5610
SUBSTITUTE SENATE BILL NO. 5610
SUBSTITUTE SENATE BILL NO. 5616
SUBSTITUTE SENATE BILL NO. 5616
SENATE BILL NO. 5629
SENATE BILL NO. 5629
ENGROSSED SUBSTITUTE SENATE BILL NO. 5651
ENGROSSED SUBSTITUTE SENATE BILL NO. 5651
SUBSTITUTE SENATE BILL NO. 5665
SUBSTITUTE SENATE BILL NO. 5665
SENATE BILL NO. 5673
SENATE BILL NO. 5673
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5688
SUBSTITUTE SENATE BILL NO. 5719
SENATE BILL NO. 5720
SUBSTITUTE SENATE BILL NO. 5724
SENATE BILL NO. 5731
SUBSTITUTE SENATE BILL NO. 5738
ENGROSSED SENATE BILL NO. 5810
SUBSTITUTE SENATE BILL NO. 5834
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5854
SUBSTITUTE SENATE BILL NO. 5891
SUBSTITUTE SENATE BILL NO. 5921
ENGROSSED SENATE BILL NO. 5925

The Speaker called upon Representative Moeller to preside.

SECOND READING

HOUSE BILL NO. 2318, by Representatives Sells, Ericks, Kenney, Liias, Simpson, Hope, McCoy, Conway and Roberts

Creating the Washington institute of aerospace technology and manufacturing studies.

The bill was read the second time.

There being no objection, Second Substitute House Bill No. 2318 was substituted for House Bill No. 2318 and the second substitute bill was placed on the second reading calendar.

SECOND SUBSTITUTE HOUSE BILL NO. 2318 was read the second time.

Representative Hasegawa moved the adoption of amendment (853):

On page 2, beginning on line 16, strike "headquartered in Snohomish county and"

Representative Hasegawa spoke in favor of the adoption of the amendment.

Representative Sells spoke against the adoption of the amendment.

Amendment (853) was not adopted.

Representative Morris moved the adoption of amendment (848):

On page 2, beginning on line 19, after "with the" strike "Washington council on aerospace" and insert "agency or entity designated by the governor"

On page 2, line 32, after "and" strike "council" and insert "the agency or entity designated by the governor"

On page 2, after line 35, insert the following:

"**NEW SECTION. Sec. 4**. A new section is added to Title 43 RCW to read as follows:

(1) The Washington aerospace futures account is created in the custody of the state treasurer. The governor may authorize expenditures from the account. Expenditures from the account may be made only for purposes of statewide aerospace workforce and industry development, including programs and activities related to workforce training and education, research and development, and aerospace industry retention and expansion. Administrative expenses, including staff support, may be paid from the account. Revenues to the account consist of moneys received from grants and donations, funds administered under the governor's discretion that are deposited into the account, and moneys received pursuant to legislative appropriations.

(2) For fiscal years 2009 through 2011, such programs and activities shall be supported by federal workforce investment act funds or other discretionary funds administered by the governor. These funds may be invested independently to support such programs and activities or may be used as match to leverage additional investments.

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

Renumber the remaining section consecutively and correct any internal references accordingly.

Correct the title.

Representative Condotta moved the adoption of amendment (849) to amendment (848):

On page 1, line 14 of the amendment, after "of" strike "statewide" and insert ": (a) Statewide"

On page 1, line 17 of the amendment, after "expansion" insert "; (b) evaluation of the statewide economic impact on real per capita personal income, charitable contributions, housing prices, and the net reduction in state and local tax collections if the aerospace industry moved twenty five percent of its existing operations out of Washington state; and (c) identification of recommendations regarding improving Washington's competitiveness with respect to aerospace industry retention and expansion by: (i) Reducing the cost of industrial insurance through the use of final settlement agreements; (ii) modifications to the state's worker's compensation system to ensure that Washington does not rank in the top quartile of states in benefits paid per worker and percentage of covered wages paid; and (iii) specific modifications to the state's unemployment insurance system to ensure that unemployment insurance tax payments per employee are no more than two hundred percent of the national average"

Representative Condotta spoke in favor of the adoption of the amendment to amendment (848).

Representative Morris spoke against the adoption of the amendment to amendment (848).

An electronic roll call was requested.

The Speaker (Representative Moeller presiding) stated the question before the House to be the adoption of amendment (849) to amendment (848) to Engrossed Second Substitute House Bill No. 2318.

ROLL CALL

The Clerk called the roll on the adoption of amendment (849) to amendment (848) to Engrossed Second Substitute House Bill No. 2318 and the amendment was not adopted by the following vote: Yeas, 39; Nays, 56; Absent, 0; Excused, 3.

Voting yea: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Dammeier, DeBolt, Driscoll, Eddy, Ericksen, Haler, Herrera, Hinkle, Hope, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Voting nay: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Ericks, Finn, Goodman, Grant-Herriot, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Excused: Representatives Crouse, Flannigan and Liias.

Amendment (849) was not adopted.

The question before the House was the adoption of amendment (848).

Representatives Morris and Smith spoke in favor of the adoption of the amendment.

Amendment (848) was adopted.

Representative Hasegawa moved the adoption of amendment (854):

On page 2, line 29, after "partners" insert "and interested community based programs and state agencies such as the state board for community and technical colleges, workforce training and education coordinating board, department of labor and industries, and employment security department"

Representative Hasegawa spoke in favor of the adoption of the amendment.

Representative Kenney spoke against the adoption of the amendment.

Amendment (854) was not adopted.

Representative Hasegawa moved the adoption of amendment (852):

On page 2, line 30, after "institute;" strike "and"

On page 2, line 31, after "structure" insert "; and

(g) Strategies for creating pathways to family wage aerospace jobs for workers from low income or economically challenged communities."

Representative Hasegawa spoke in favor of the adoption of the amendment.

Representative Sells spoke against the adoption of the amendment.

Amendment (852) was not adopted.

The bill was ordered engrossed.

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

Representatives Sells, Hasegawa, Smith, Morris, Priest, Conway and Kenney spoke in favor of the passage of the bill.

Representatives Orcutt spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2318.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2318 and the bill passed the House by the following vote: Yeas, 86; Nays, 9; Absent, 0; Excused, 3.

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

Voting nay: Representatives Chandler, Condotta, Cox, Klippert, Kretz, Orcutt, Shea, Short and Taylor.

Excused: Representatives Crouse, Flannigan and Liias.

SECOND SUBSTITUTE HOUSE BILL NO. 2318, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on SECOND SUBSTITUTE HOUSE BILL NO. 2318.

MARKO LIIAS, 21st District

There being no objection, House Rule 13 (C) was suspended allowing the House to work past 10:00 p.m.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6108, by Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Holmquist and Kohl-Welles)

Allowing the state lottery to enter into agreements to conduct multistate shared games. Revised for 1st Substitute: Allowing the state lottery to enter into agreements to conduct multistate shared games. (REVISED FOR ENGROSSED: Allowing the state lottery commission to enter into an agreement to conduct an additional shared lottery game.)

The bill was read the second time.

With the consent of the House, amendments (836), (837) and (840) were withdrawn.

Representative Maxwell moved the adoption of amendment (858):

On page 2, after line 1, insert the following:

"**Sec. 2.** RCW 67.70.340 and 2005 c 369 s 4 are each amended to read as follows:

(1) The legislature recognizes that creating a shared game lottery could result in less revenue being raised by the existing state lottery ticket sales. The legislature further recognizes that the two funds most impacted by this potential event are the student achievement fund and the education construction account. Therefore, it is the intent of the legislature to use some of the proceeds from the shared game lottery to make up the difference that the potential state lottery revenue loss would have on the student achievement fund and the education construction account. The legislature further intends to use some of the proceeds from the shared game lottery to fund programs and services related to problem and pathological gambling.

(2) The student achievement fund and the education construction account are expected to collectively receive one hundred two million dollars annually from state lottery games other than the shared game lottery. For fiscal year 2003 and thereafter, if the amount of lottery revenues earmarked for the student achievement fund and the education construction account is less than one hundred two million dollars, the commission, after making the transfer required under subsection (3) of this section, must transfer sufficient moneys from revenues derived from the shared game lottery into the student achievement fund and the education construction account to bring the total revenue up to one hundred two million dollars. The funds transferred from the shared game lottery account under this subsection must be divided between the student achievement fund and the education construction account in a manner consistent with RCW 67.70.240(3).

(3) (a) The commission shall transfer, from revenue derived from the shared game lottery, to the problem gambling account created in RCW 43.20A.892, an amount equal to the percentage specified in (b) of this subsection of net receipts. For purposes of this subsection, "net receipts" means the difference between (i) revenue received from the sale of lottery tickets or shares and revenue received from the sale of shared game lottery tickets or shares; and (ii) the sum of payments made to winners.

(b) In fiscal year 2006, the percentage to be transferred to the problem gambling account is one-tenth of one percent. In fiscal year 2007 and subsequent fiscal years, the percentage to be transferred to the problem gambling account is thirteen one-hundredths of one percent.

(4) The commission shall transfer the remaining net revenues, if any, derived from the shared game lottery "Powerball" authorized in section 1(1) of this act after the transfers pursuant to this section into the state general fund for the student achievement program under RCW 28A.505.220.

(((4))) (5) The remaining net revenues, if any, in the shared game lottery account after the transfers pursuant to this section shall be deposited into the general fund."

Correct the title.

Representatives Maxwell and Angel spoke in favor of the adoption of the amendment.

Amendment (858) was adopted.

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

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

Representative Condotta spoke against the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 6108, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 6108, as amended by the House, and the bill passed the House by the following vote: Yeas, 60; Nays, 35; Absent, 0; Excused, 3.

Voting yea: Representatives Angel, Appleton, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Driscoll, Dunshee, Ericks, Finn, Goodman, Grant-Herriot, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Jacks, Kagi, Kelley, Kenney, Kessler, Kirby, Linville, Maxwell, McCoy, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Priest, Probst, Quall, Roberts, Rolfes, Santos, Seaquist, Sells, Simpson, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Armstrong, Bailey, Carlyle, Chandler, Condotta, Cox, Dammeier, DeBolt, Eddy, Ericksen, Haler, Herrera, Hinkle, Hope, Hurst, Johnson, Klippert, Kretz, Kristiansen, McCune, Orcutt, Parker, Pearson, Roach, Rodne, Ross, Schmick, Shea, Short, Smith, Taylor, Walsh and Warnick.

Excused: Representatives Crouse, Flannigan and Liias.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6108, as amended by the House, having received the necessary constitutional majority, was declared passed.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5288, by Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Regala and Shin)

Reducing the categories of offenders supervised by the department of corrections. Revised for 1st Substitute: Reducing the categories of offenders supervised by the department of corrections. (REVISED FOR ENGROSSED: Changing provisions regarding supervision of offenders.)

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Ways & Means was before the body for purpose of amendment. (For committee amendment, see Journal, Day 99, April 20, 2009.)

Representative Pearson moved the adoption of amendment (855) to the committee amendment:

On page 1, after line 2 of the striking amendment, insert the following:

"**NEW SECTION. Sec. 1**. A new section is added to chapter 9.94A RCW to read as follows:

The legislature finds that Washington state has one of the lowest incarceration rates in the nation. Earned release time for felony offenders of fifteen percent, thirty-three percent and fifty percent are based on the promise of community supervision among other things to ensure our communities remain safe. It is the intent of the legislature to ensure by this act that high risk offenders and offenders convicted of fourth degree assault, violation of a domestic violence court order and who also have a prior conviction for a previous violent offense; sex offense; crime against a person; fourth degree assault; or violation of a domestic violence court order; and offenders convicted of sexual misconduct with a minor second degree; custodial sexual misconduct second degree; communication with a minor for immoral purposes; or failure to register are adequately supervised to maintain an adequate level of public safety."

Renumber remaining sections consecutively and correct any internal references accordingly.

On page 46, after line 29, insert the following:

"**NEW SECTION. Sec. 16.** (1) In order to provide supervision of misdemeanant offenders ordered to probation and felony offenders sentenced to community custody whose risk assessment, conducted pursuant to section 1(1)(5) and section 2(1)(5) of this act, places the offender in one of the two highest risk categories, and offenders sentenced for a misdemeanor or gross misdemeanor in superior court pursuant to subsections (1)(b)(iii) and (iv) of sections 1 and 2, for any budget adopted by the legislature for the 2009-11 biennium, the number of full-time equivalent positions for the community corrections program of the department of corrections shall be the same as or greater than the number in the 2007-09 biennial budget as enacted by the legislature in 2008.

(2) For any budget adopted by the legislature for the 2009-11 biennium, the number of full-time equivalent positions for the community corrections program of the department of corrections shall be the same as or greater than the number in the 2007-09 biennial budget as enacted by the legislature in 2008."

Renumber remaining sections consecutively and correct any internal references accordingly.

Correct the title.

Representatives Pearson and Klippert spoke in favor of the adoption of the amendment to the committee amendment.

Representative Dickerson spoke against the adoption of the amendment to the committee amendment.

Division was demanded and the demand was sustained.

The Speaker (Representative Morris presiding) divided the House. The result was 41 – YEA; 54 – NAY.

Amendment (855) to the committee amendment was not adopted.

Representative Pearson moved the adoption of amendment (857) to the committee amendment:

On page 2, line 12, after "offender))" strike all material through "9A.44.130." on line 30 and insert "(a) The department shall supervise every offender convicted of a misdemeanor or gross misdemeanor offense who is sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for an offense included in (b) of this subsection.

(b) The superior court shall order probation for:

(i) Offenders convicted of fourth degree assault, violation of a domestic violence court order pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145, and who also have a prior conviction for one or more of the following:

(A) A violent offense

(B) A sex offense;

(C) A crime against a person as provided in RCW 9.94A.411;

(D) Fourth degree assault; or

(E) Violation of a domestic violence court order;

(ii) Offenders convicted of:

(A) Sexual misconduct with a minor second degree;

(B) Custodial sexual misconduct second degree;

(C) Communication with a minor for immoral purposes; and

(D) Failure to register pursuant to RCW 9A.44.130;

(iii) An offense included in (b)(i) where the offender does not have a prior conviction or the offender has a prior conviction other than one of those identified in (b)(i)(A) through (b)(i)(E) and the offender's risk assessment, conducted pursuant to subsection (5) of this section, places the offender in one of the two highest risk categories; and

(iv) An offense not included in (b)(i) or (b)(ii) where the offender's risk assessment, conducted pursuant to subsection (5) of this section, places the offender in one of the two highest risk categories."

On page 3, line 18, after "for" strike "every" and insert ":

(a) Every"

On page 3, line 20, after "section" insert the following: "; and

(b) Every offender sentenced for a misdemeanor or gross misdemeanor in superior court pursuant to subsections (1)(b)(iii) and (1)(b)(iv) of this section"

On page 4, beginning on line 22, after "offender))" strike all material through "9A.44.130." on page 5, line 2 and insert "(a) The department shall supervise every offender convicted of a misdemeanor or gross misdemeanor offense who is sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for an offense included in (b) of this subsection.

(b) The superior court shall order probation for:

(i) Offenders convicted of fourth degree assault, violation of a domestic violence court order pursuant to RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070,

or 74.34.145, and who also have a prior conviction for one or more of the following:

(A) A violent offense

(B) A sex offense;

(C) A crime against a person as provided in RCW 9.94A.411;

(D) Fourth degree assault; or

(E) Violation of a domestic violence court order;

(ii) Offenders convicted of:

(A) Sexual misconduct with a minor second degree;

(B) Custodial sexual misconduct second degree;

(C) Communication with a minor for immoral purposes; and

(D) Failure to register pursuant to RCW 9A.44.130;

(iii) An offense included in (b)(i) where the offender does not have a prior conviction or the offender has a prior conviction other than one of those identified in (b)(i)(A) through (b)(i)(E) and the offender's risk assessment, conducted pursuant to subsection (5) of this section, places the offender in one of the two highest risk categories; and

(iv) An offense not included in (b)(i) or (b)(ii) where the offender's risk assessment, conducted pursuant to subsection (5) of this section, places the offender in one of the two highest risk categories."

On page 5, line 27, after "for" strike "every" and insert":

(a) Every"

On page 5, line 29, after "section" insert the following:"; and

(b) Every offender sentenced for a misdemeanor or gross misdemeanor in superior court pursuant to subsections (1)(b)(iii) and (1)(b)(iv) of this section"

On page 5, after line 29, insert the following:

"**Sec. 3.** RCW 9.94A.500 and 2008 c 231 s 2 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. The court shall, however, at the time of plea or conviction order the department to complete a risk assessment report for offenders sentenced pursuant to section 1(1)(b)(iii) and (iv) and section 2(1)(b)(iii) and (iv) of this act. 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."

Renumber remaining sections consecutively and correct any internal references accordingly.

On page 46, after line 17, insert the following:

"**NEW SECTION. Sec. 15**. (1) The state of Washington, the department of corrections and its employees, community corrections officers, and volunteers who assist community corrections officers are not liable for any harm caused by the actions of a felony or misdemeanant offender who is under the department's supervision under this act.

(2) The state of Washington, the department of corrections and its employees, community corrections officers, and volunteers who assist community corrections officers are not liable for civil damages resulting from any act or omission in the rendering of activities under this act unless the act or omission constitutes gross negligence. For the purposes of this section, "volunteers" is defined according to RCW 51.12.035."

Renumber remaining sections consecutively and correct any internal references accordingly.

Correct the title.

Representatives Pearson, Klippert and Chandler spoke in favor of the adoption of the amendment to the committee amendment.

Representatives Dickerson, Williams and Darneille spoke against the adoption of the amendment to the committee amendment.

Amendment (857) to the committee amendment was not adopted.

Representative Darneille moved the adoption of amendment (856) to the committee amendment:

On page 2, line 29, after "purposes;" strike "or" and insert "and"

On page 2, at the beginning of line 31, strike "(c)" and insert "(2)"

On page 2, at the beginning of line 34, strike "(2)" and insert "(3)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 5, line 1, after "purposes;" strike "or" and insert "and"

On page 5, at the beginning of line 3, strike "(c)" and insert "(2)"

On page 5, at the beginning of line 6, strike "(2)" and insert "(3)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Representatives Darneille and Dammeier spoke in favor of the adoption of the amendment to the committee amendment.

Amendment (856) to the committee amendment was adopted.

Representative Bailey moved the adoption of amendment (850) to the committee amendment:

On page 47, beginning on line 2 of the amendment, after "**Sec. 18.**" strike all material through "(2)" on line 6

Representative Bailey spoke in favor of the adoption of the amendment to the committee amendment.

Representative Dickerson spoke against the adoption of the amendment to the committee amendment.

Amendment (850) to the committee amendment was not adopted.

The committee amendment as amended was adopted.

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

Representatives Dickerson, and Darneille spoke in favor of the passage of the bill.

Representatives Dammeier, Angel, Pearson, Orcutt and Klippert spoke against the passage of the bill.

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5288, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5288, as amended by the House, and the bill passed the House by the following vote: Yeas, 51; Nays, 45; Absent, 0; Excused, 2.

Voting yea: Representatives Appleton, Blake, Carlyle, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Finn, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jacks, Kagi, Kenney, Kessler, Kirby, Liias, Linville, Maxwell, McCoy, Miloscia, Moeller, Morris, Nelson, O'Brien, Ormsby, Orwall, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Sells, Springer, Sullivan, Takko, Upthegrove, Van De Wege, White, Williams, Wood and Mr. Speaker.

Voting nay: Representatives Alexander, Anderson, Angel, Armstrong, Bailey, Campbell, Chandler, Condotta, Cox, Dammeier, DeBolt, Driscoll, Ericksen, Goodman, Grant-Herriot, Green, Haler, Herrera, Hinkle, Hope, Johnson, Kelley, Klippert, Kretz, Kristiansen, McCune, Morrell, Orcutt, Parker, Pearson, Priest, Probst, Roach, Rodne, Ross, Schmick, Seaquist, Shea, Short, Simpson, Smith, Taylor, Wallace, Walsh and Warnick.

Excused: Representatives Crouse and Flannigan.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5288, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

There being no objection, the House adjourned until 10:00 a.m., April 22, 2009, the 101st Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk