FIFTY-EIGHTH DAY

MORNING SESSION

Senate Chamber, Olympia, Tuesday, March 7, 2006

The Senate was called to order at 9:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exceptions of Senators Finkbeiner, Haugen, Jacobsen, Mulliken and Parlette.

The Sergeant at Arms Color Guard consisting of Pages Gary Oakland and Lindsay Purkeypyle, presented the Colors. Reverend Bob Shepard, Executive Director, Serve of Wenatchee Valley Church offered the prayer.

MOTION

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

MOTION

On motion of Senator Eide, Senate Rule 20(2) was suspended for the remainder of the day to allow consideration of additional floor resolutions.

EDITOR'S NOTE: Senate Rule 20 limits consideration of floor resolutions not essential to the operation of the Senate to one per day during regular daily sessions.

MOTION

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

MOTION

Senator Parlette moved adoption of the following resolution:

SENATE RESOLUTION
8734

By Senators Parlette, Sheldon, Weinstein, Jacobsen, Kohl-Welles, Haugen, Fraser, Morton, Schoesler, Delvin, Finkbeiner, Carrell, Stevens, Deccio, Johnson, Schmidt, Swecker, Mulliken, Honeyford and Brandland

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

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

WHEREAS, The Apple Blossom Festival, which began in 1919 as a one-day gathering of poetry and song in Wenatchee's Memorial Park, is one of the oldest major festivals in the state; and

WHEREAS, The City of Wenatchee is preparing to celebrate the 87th annual Washington State Apple Blossom Festival to take place from April 27 through May 7, 2006; and

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

WHEREAS, These three young women are selected by their peers and community to reign over the Apple Blossom Festival and serve as ambassadors of this great region of Eastern Washington, the Wenatchee Valley, and the surrounding communities as Princesses and Queen; and

WHEREAS, Liz Speidel has been selected to represent her community as a 2006 Apple Blossom Princess in part due to her accomplishments and contributions to the community through a dedication to academic excellence and scholastic achievement, as well as her involvement in extracurricular activities at Wenatchee High School where she serves as secretary of Key Club and as a member of the National Honor Society, French Club, Interact Club, Political Awareness Club, and Chamber Singers; and

WHEREAS, Julie Rice has been selected to represent her community as a 2006 Apple Blossom Princess in part due to her service as Drum Major of Wenatchee High School's Golden Apple marching band and as a Freshman orientation counselor, youth group leader, and volunteer counselor at Royal Family Kids Camp, as well as for her academic and scholastic achievements, which include the Challenge Program and the National Honor Society; and

WHEREAS, Jenny Hampton has been selected to represent her community as the 2006 Apple Blossom Queen in part due to her accomplishments and contributions to the community through her demonstrated leadership and service as an Associated Student Body Activities Coordinator at Wenatchee High School, where she strives to exemplify the characteristics of servant leadership: Patience, kindness, humility, respect, selflessness, honesty, commitment, and forgiveness, as well as for her positive attitude on and off the volleyball and tennis court and for her devotion to academic excellence and scholastic achievement as a math tutor and as a member of the National Honor Society;

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

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Queen Jenny Hampton, Princess Liz Speidel, Princess Julie Rice, and the board of directors and chairs of the Washington State Apple Blossom Festival.

Senator Parlette spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8734.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Jenny Hampton, the 2006 Apple Blossom Queen, who was seated at the rostrum.

With permission of the Senate, business was suspended to allow Apple Blossom Queen Jenny Hampton to address the Senate.

REMARKS BY QUEEN HAMPTON

Queen Hampton: "Hello, I am the Apple Blossom Queen, Jenny Hampton, and on behalf of Princesses Julie Rice and Liz Speidel, I'd like to thank you for allowing us to be here today. All three of us have looked forward to this trip ever since we were handed our year-long calendar of Apple Blossom events. And no, it's not because we know we'd get to go shopping. That was just an added bonus. It has been such a pleasure meeting so many of you and being able to get an inside look at the political process here in Olympia. Both of my parents have served in the armed forces and when my dad returned from Iraq last year, he would tell me stories about the voting and the purple thumbs and how the people over there were so excited for change and how they began to have hope. Some of the stories that go on in the streets over there are just unbelieveable. Stories like that make me so thankful that I live in a country where I don't have to be afraid of road side bombs. Thankful of a government that allows me to freely express my opinions and thankful of it's people who, often times, may be polarized are all fighting for the same thing, that of our natural rights. We may not always agree on how we should go about keeping these freedoms but it's the process of compromise that makes America so great. So,

thank you for all that you do. On behalf of the Washington State Apple Blossom Festival, I'd like to officially invite you to take a walk on Orondo street on Saturday, May 6, to watch the eighty-seventh Apple Blossom Grand Parade. Also join us for any of our other festivities running from April 27 through May 7 and I'm sure we will see all of you there for there are no excuses, it's a bipartisan event. Thank you again for having us here today. Hope you have a wonderful day."

MOTION

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

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:
The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6566, with the following amendments{s} 6566-S.E AMH TR H5407.1.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.94.524 and 1991 c 202 s 11 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "A major employer" means a private or public employer, including state agencies, that employs one hundred or more full-time employees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least twelve continuous months during the year.

(2) "Major worksite" means a building or group of buildings that are on physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights of way, and at which there are one hundred or more full-time employees ((~~of one or more employers~~)), who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months.

(3) ((~~"Commute trip reduction zones" mean areas, such as census tracts or combinations of census tracts, within a jurisdiction that are characterized by similar employment density, population density, level of transit service, parking availability, access to high occupancy vehicle facilities, and other factors that are determined to affect the level of single occupancy vehicle commuting.~~

~~(4)~~)) "Major employment installation" means a military base or federal reservation, excluding tribal reservations, at which there are one hundred or more full-time employees, who begin their regular workday between 6:00 a.m. and 9:00 a.m. on weekdays, for at least twelve continuous months during the year.

(4) "Person hours of delay" means the daily person hours of delay per mile in the peak period of 6:00 a.m. to 9:00 a.m., as calculated using the best available methodology by the department of transportation.

(5) "Commute trip" means trips made from a worker's home to a worksite during the peak period of 6:00 a.m. to 9:00 a.m. on weekdays.

(((~~(5)~~))) (6) "Proportion of single-occupant vehicle commute trips" means the number of commute trips made by single-occupant automobiles divided by the number of full-time employees.

(((~~(6)~~))) (7) "Commute trip vehicle miles traveled per employee" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.

(((~~(7)~~))) (8) "Base year" means the ((~~year January 1, 1992, through December 31, 1992, on which goals for vehicle miles traveled and single-occupant vehicle trips shall be based. Base year goals may be determined using the 1990 journey-to-work census data projected to the year 1992 and shall be consistent with the growth management act. The task force shall establish a method to be used by jurisdictions to determine reductions of vehicle miles traveled~~)) twelve-month period commencing when a major employer is determined to be participating by the local jurisdiction, on which commute trip reduction goals shall be based.

(9) "Growth and transportation efficiency center" means a defined, compact, mixed-use urban area that contains jobs or housing and supports multiple modes of transportation. For the purpose of funding, a growth and transportation efficiency center must meet minimum criteria established by the commute trip reduction board under RCW 70.94.537, and must be certified by a regional transportation planning organization as established in RCW 47.80.020.

(10)(a) "Affected urban growth area" means:

(i) An urban growth area, designated pursuant to RCW 36.70A.110, whose boundaries contain a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, and any contiguous urban growth areas; and

(ii) An urban growth area, designated pursuant to RCW 36.70A.110, containing a jurisdiction with a population over seventy thousand that adopted a commute trip reduction ordinance before the year 2000, and any contiguous urban growth areas.

(b) Affected urban growth areas will be listed by the department of transportation in the rules for this act using the criteria identified in (a) of this subsection.

(11) "Certification" means a determination by a regional transportation planning organization that a locally designated growth and transportation efficiency center program meets the minimum criteria developed in a collaborative regional process and the rules established by the department of transportation.

Sec. 2. RCW 70.94.527 and 1997 c 250 s 2 are each amended to read as follows:

(1) Each county ((~~with a population over one hundred fifty thousand, and each city or town within those counties containing a major employer shall, by October 1, 1992, adopt by ordinance and implement a commute trip reduction plan for all major employers. The plan shall be developed in cooperation with local transit agencies, regional transportation planning organizations as established in RCW 47.80.020, major employers, and the owners of and employers at major worksites~~)) containing an urban growth area, as defined by RCW 36.70A.110, and each city within an urban growth area with a state highway segment exceeding the one hundred person hours of delay threshold calculated by the department of transportation, as well as those counties and cities located in any contiguous urban growth areas, shall adopt a commute trip reduction plan and ordinance for major employers in the affected urban growth area by a date specified by the commute trip reduction board. Jurisdictions located within an urban growth area with a population greater than seventy thousand that adopted a commute trip reduction ordinance before the year 2000, as well as any jurisdiction within contiguous urban growth areas, shall also adopt a commute trip reduction plan and ordinance for major employers in the affected urban growth area by a date specified by the commute trip reduction board. Jurisdictions containing a major employment installation in a county with an affected growth area, as defined by RCW 36.70A.110, shall adopt a commute trip reduction plan and ordinance for major employers in the major employment installation by a date specified by the commute trip reduction board. The ordinance shall establish the requirements for major employers and provide an appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of the ordinance, may obtain waiver or

modification of those requirements. The plan shall be designed to achieve reductions in the proportion of single-occupant vehicle commute trips and ((the commute trip vehicle miles traveled per employee by employees of major public and private sector employers in the jurisdiction)) be consistent with the rules established by the department of transportation. The county, city, or town shall submit its adopted plan to the regional transportation planning organization. The county, city, or town plan shall be included in the regional commute trip reduction plan for regional transportation planning purposes, consistent with the rules established by the department of transportation in RCW 70.94.537.

(2) All other counties, ((and)) cities, and towns ((in those counties,)) may adopt and implement a commute trip reduction plan consistent with department of transportation rules established under RCW 70.94.537. Tribal governments are encouraged to adopt a commute trip reduction plan for their lands. State investment in voluntary commute trip reduction plans shall be limited to those areas that meet criteria developed by the commute trip reduction board.

(3) The department of ecology may, after consultation with the department of transportation, as part of the state implementation plan for areas that do not attain the national ambient air quality standards for carbon monoxide or ozone, require municipalities other than those identified in subsection (1) of this section to adopt and implement commute trip reduction plans if the department determines that such plans are necessary for attainment of said standards.

(4) A commute trip reduction plan shall be consistent with the ((guidelines)) rules established under RCW 70.94.537 and shall include but is not limited to (a) goals for reductions in the proportion of single-occupant vehicle commute trips ((and the commute trip vehicle miles traveled per employee)) consistent with the state goals established by the commute trip reduction board under RCW 70.94.537 and the regional commute trip reduction plan goals established in the regional commute trip reduction plan; (b) ((designation of commute trip reduction zones; (c))) a description of the requirements for major public and private sector employers to implement commute trip reduction programs; (((d))) (c) a commute trip reduction program for employees of the county, city, or town; (((e) a review of local parking policies and ordinances as they relate to employers and major worksites and any revisions necessary to comply with commute trip reduction goals and guidelines; (f) an appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of a commute trip reduction plan, may obtain waiver or modification of those requirements; and (g))) and (d) means, consistent with rules established by the department of transportation, for determining base year values ((of the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee)) and progress toward meeting commute trip reduction plan goals ((on an annual basis. Goals which are established shall take into account existing transportation demand management efforts which are made by major employers. Each jurisdiction shall ensure that employers shall receive full credit for the results of transportation demand management efforts and commute trip reduction programs which have been implemented by major employers prior to the base year. The goals for miles traveled per employee for all major employers shall not be less than a fifteen percent reduction from the worksite base year value or the base year value for the commute trip reduction zone in which their worksite is located by January 1, 1995, twenty percent reduction from the base year values by January 1, 1997, twenty-five percent reduction from the base year values by January 1, 1999, and a thirty-five percent reduction from the base year values by January 1, 2005.

(5) A county, city, or town may, as part of its commute trip reduction plan, require commute trip reduction programs for employers with ten or more full time employees at major worksites in federally designated nonattainment areas for carbon monoxide and ozone. The county, city or town shall develop the programs in cooperation with affected employers and provide technical assistance to the employers in implementing such programs)). The plan shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

(((6))) (5) The commute trip reduction plans adopted by counties, cities, and towns under this chapter shall be consistent with and may be incorporated in applicable state or regional transportation plans and local comprehensive plans and shall be coordinated, and consistent with, the commute trip reduction plans of counties, cities, or towns with which the county, city, or town has, in part, common borders or related regional issues. Such regional issues shall include assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction. Counties, cities, ((or)) and towns adopting commute trip reduction plans may enter into agreements through the interlocal cooperation act or by resolution or ordinance as appropriate with other jurisdictions, local transit agencies, transportation management associations or other private or nonprofit providers of transportation services, or regional transportation planning organizations to coordinate the development and implementation of such plans. Transit agencies shall work with counties, cities, and towns as a part of their six-year transit development plan established in RCW 35.58.2795 to take into account the location of major employer worksites when planning and prioritizing transit service changes or the expansion of public transportation services, including rideshare services. Counties, cities, or towns adopting a commute trip reduction plan shall review it annually and revise it as necessary to be consistent with applicable plans developed under RCW 36.70A.070. Regional transportation planning organizations shall review the local commute trip reduction plans during the development and update of the regional commute trip reduction plan.

(6) Each affected regional transportation planning organization shall adopt a commute trip reduction plan for its region consistent with the rules and deadline established by the department of transportation under RCW 70.94.537. The plan shall include, but is not limited to: (a) Regional program goals for commute trip reduction in urban growth areas and all designated growth and transportation efficiency centers; (b) a description of strategies for achieving the goals; (c) a sustainable financial plan describing projected revenues and expenditures to meet the goals; (d) a description of the way in which progress toward meeting the goals will be measured; and (e) minimum criteria for growth and transportation efficiency centers. (i) Regional transportation planning organizations shall review proposals from local jurisdictions to designate growth and transportation efficiency centers and shall determine whether the proposed growth and transportation efficiency center is consistent with the criteria defined in the regional commute trip reduction plan. (ii) Growth and transportation efficiency centers certified as consistent with the minimum requirements by the regional transportation planning organization shall be identified in subsequent updates of the regional commute trip reduction plan. These plans shall be developed in collaboration with all affected local jurisdictions, transit agencies, and other interested parties within the region. The plan will be reviewed and approved by commute trip reduction board as established under RCW 70.94.537. Regions without an approved regional commute trip reduction plan shall not be eligible for state commute trip reduction program funds.

The regional commute trip reduction plan shall be consistent with and incorporated into transportation demand management components in the regional transportation plan as required by RCW 47.80.030.

(7) Each ((~~county, city, or town~~)) regional transportation planning organization implementing a regional commute trip reduction program shall, ((~~within thirty days submit a summary of its plan along with certification of adoption~~)) consistent with the rules and deadline established by the department of transportation, submit its plan as well as any related local commute trip reduction plans and certified growth and transportation efficiency center programs, to the commute trip reduction ((~~task force~~)) board established under RCW 70.94.537. The commute trip reduction board shall review the regional commute trip reduction plan and the local commute trip reduction plans. The regional transportation planning organization shall collaborate with the commute trip reduction board to evaluate the consistency of local commute trip reduction plans with the regional commute trip reduction plan. Local and regional plans must be approved by the commute trip reduction board in order to be eligible for state funding provided for the purposes of this chapter.

(8) Each ((~~county, city, or town~~)) regional transportation planning organization implementing a regional commute trip reduction program shall submit an annual progress report to the commute trip reduction ((~~task force~~)) board established under RCW 70.94.537. The report shall be due ((~~July 1, 1994, and each July 1st thereafter through July 1, 2006~~)) at the end of each state fiscal year for which the program has been implemented. The report shall describe progress in attaining the applicable commute trip reduction goals ((~~for each commute trip reduction zone~~)) and shall highlight any problems being encountered in achieving the goals. The information shall be reported in a form established by the commute trip reduction ((~~task force~~)) board.

(9) Any waivers or modifications of the requirements of a commute trip reduction plan granted by a jurisdiction shall be submitted for review to the commute trip reduction ((~~task force~~)) board established under RCW 70.94.537. The commute trip reduction ((~~task force~~)) board may not deny the granting of a waiver or modification of the requirements of a commute trip reduction plan by a jurisdiction but they may notify the jurisdiction of any comments or objections.

(10) ((~~Each county, city, or town implementing a commute trip reduction program shall count commute trips eliminated through work-at-home options or alternate work schedules as one and two-tenths vehicle trips eliminated for the purpose of meeting trip reduction goals.~~

~~(11) Each county, city, or town implementing a commute trip reduction program shall ensure that employers that have modified their employees' work schedules so that some or all employees are not scheduled to arrive at work between 6:00 a.m. and 9:00 a.m. are provided credit when calculating single-occupancy vehicle use and vehicle miles traveled at that worksite. This credit shall be awarded if implementation of the schedule change was an identified element in that worksite's approved commute trip reduction program or if the schedule change occurred because of impacts associated with chapter 36.70A RCW, the growth management act.~~

~~(12)~~)) Plans implemented under this section shall not apply to commute trips for seasonal agricultural employees.

((~~(13)~~)) (11) Plans implemented under this section shall not apply to construction worksites when the expected duration of the construction project is less than two years.

(12) If an affected urban growth area has not previously implemented a commute trip reduction program, and the state has funded solutions to state highway deficiencies to address the area's exceeding the person hours of delay threshold, the affected urban growth area shall be exempt from the duties of this section for a period not exceeding two years.

NEW SECTION. **Sec. 3.** A new section is added to chapter 70.94 RCW to read as follows:

Nothing in this act preempts the ability of state employees to collectively bargain over commute trip reduction issues, including parking fees under chapter 41.80 RCW, or the ability of private sector employees to collectively bargain over commute trip reduction issues if previously such issues were mandatory subjects of collective bargaining.

NEW SECTION. **Sec. 4.** A new section is added to chapter 70.94 RCW to read as follows:

(1) A county, city, or town may, as part of its commute trip reduction plan, designate existing activity centers listed in its comprehensive plan or new activity centers as growth and transportation efficiency centers and establish a transportation demand management program in the designated area.

(a) The transportation demand management program for the growth and transportation efficiency center shall be developed in consultation with local transit agencies, the applicable regional transportation planning organization, major employers, and other interested parties.

(b) In order to be eligible for state funding provided for the purposes of this section, designated growth and transportation efficiency centers shall be certified by the applicable regional transportation organization to: (i) Meet the minimum land use and transportation criteria established in collaboration among local jurisdictions, transit agencies, the regional transportation planning organization, and other interested parties as part of the regional commute trip reduction plan; and (ii) have established a transportation demand management program that includes the elements identified in (c) of this subsection and is consistent with the rules established by the department of transportation in RCW 70.94.537(2). If a designated growth and transportation efficiency center is denied certification, the local jurisdiction may appeal the decision to the commute trip reduction board.

(c) Transportation demand management programs for growth and transportation efficiency centers shall include, but are not limited to: (i) Goals for reductions in the proportion of single-occupant vehicle trips that are more aggressive than the state program goal established by the commute trip reduction board; (ii) a sustainable financial plan demonstrating how the program can be implemented to meet state and regional trip reduction goals, indicating resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommending any innovative financing techniques consistent with chapter 47.29 RCW, including public/private partnerships, to finance needed facilities, services, and programs; (iii) a proposed organizational structure for implementing the program; (iv) a proposal to measure performance toward the goal and implementation progress; and (v) an evaluation to which local land use and transportation policies apply, including parking policies and ordinances, to determine the extent that they complement and support the trip reduction investments of major employers. Each of these program elements shall be consistent with the rules established under RCW 70.94.537.

(d) A designated growth and transportation efficiency center shall be consistent with the land use and transportation elements of the local comprehensive plan.

(e) Transit agencies, local governments, and regional transportation planning organizations shall identify certified growth and transportation efficiency centers as priority areas for new service and facility investments in their respective investment plans.

(2) A county, city, or town that has established a growth and transportation efficiency center program shall support vehicle trip reduction activities in the designated area. The implementing jurisdiction shall adopt policies, ordinances, and funding strategies that will lead to attainment of program goals in those areas.

Sec. 5. RCW 70.94.531 and 1997 c 250 s 3 are each amended to read as follows:

(1) State agency worksites are subject to the same requirements under this section and RCW 70.94.534 as private employers.

(2) Not more than ((~~six months~~)) ninety days after the adoption of ((~~the~~)) a jurisdiction's commute trip reduction plan ((~~by a jurisdiction~~)), each major employer in that jurisdiction

shall perform a baseline measurement consistent with the rules established by the department of transportation under RCW 70.94.537. Not more than ninety days after receiving the results of the baseline measurement, each major employer shall develop a commute trip reduction program and shall submit a description of that program to the jurisdiction for review. The program shall be implemented not more than ((~~six months~~)) ninety days after ((~~submission to~~)) approval by the jurisdiction.

((~~(2)~~)) (3) A commute trip reduction program of a major employer shall consist of, at a minimum (a) designation of a transportation coordinator and the display of the name, location, and telephone number of the coordinator in a prominent manner at each affected worksite; (b) regular distribution of information to employees regarding alternatives to single-occupant vehicle commuting; (c) ((~~an annual~~)) a regular review of employee commuting and reporting of progress toward meeting the single-occupant vehicle reduction goals to the county, city, or town consistent with the method established in the commute trip reduction plan and the rules established by the department of transportation under RCW 70.94.537; and (d) implementation of a set of measures designed to achieve the applicable commute trip reduction goals adopted by the jurisdiction. Such measures may include but are not limited to:

(i) Provision of preferential parking or reduced parking charges, or both, for high occupancy vehicles;

(ii) Instituting or increasing parking charges for single-occupant vehicles;

(iii) Provision of commuter ride matching services to facilitate employee ridesharing for commute trips;

(iv) Provision of subsidies for transit fares;

(v) Provision of vans for van pools;

(vi) Provision of subsidies for car pooling or van pooling;

(vii) Permitting the use of the employer's vehicles for car pooling or van pooling;

(viii) Permitting flexible work schedules to facilitate employees' use of transit, car pools, or van pools;

(ix) Cooperation with transportation providers to provide additional regular or express service to the worksite;

(x) Construction of special loading and unloading facilities for transit, car pool, and van pool users;

(xi) Provision of bicycle parking facilities, lockers, changing areas, and showers for employees who bicycle or walk to work;

(xii) Provision of a program of parking incentives such as a rebate for employees who do not use the parking facility;

(xiii) Establishment of a program to permit employees to work part or full time at home or at an alternative worksite closer to their homes;

(xiv) Establishment of a program of alternative work schedules such as compressed work week schedules which reduce commuting; and

(xv) Implementation of other measures designed to facilitate the use of high-occupancy vehicles such as on-site day care facilities and emergency taxi services.

((~~(3)~~)) (4) Employers or owners of worksites may form or utilize existing transportation management associations or other transportation-related associations authorized by RCW 35.87A.010 to assist members in developing and implementing commute trip reduction programs.

((~~(4)~~)) (5) Employers shall make a good faith effort towards achievement of the goals identified in RCW 70.94.527(4)((~~(g)~~)) (d).

Sec. 6. RCW 70.94.534 and 1997 c 250 s 4 are each amended to read as follows:

(1) Each jurisdiction implementing a commute trip reduction plan under this chapter or as part of a plan or ordinance developed under RCW 36.70A.070 shall review each employer's initial commute trip reduction program to determine if the program is likely to meet the applicable commute trip reduction goals. The employer shall be notified by the jurisdiction of its findings. If the jurisdiction finds that the program is not likely to meet the applicable commute trip reduction goals, the jurisdiction will work with the employer to modify the program as necessary. The jurisdiction shall complete review of each employer's initial commute trip reduction program within ((~~three months~~)) ninety days of receipt.

(2) Employers implementing commute trip reduction programs are expected to undertake good faith efforts to achieve the goals outlined in RCW 70.94.527(4). Employers are considered to be making a good faith effort if the following conditions have been met:

(a) The employer has met the minimum requirements identified in RCW 70.94.531; ((~~and~~))

(b) The employer has notified the jurisdiction of its intent to substantially change or modify its program and has either received the approval of the jurisdiction to do so or has acknowledged that its program may not be approved without additional modifications;

(c) The employer has provided adequate information and documentation of implementation when requested by the jurisdiction; and

(d) The employer is working collaboratively with its jurisdiction to continue its existing program or is developing and implementing program modifications likely to result in improvements to the program over an agreed upon length of time.

(3) Each jurisdiction shall ((~~annually~~)) review at least once every two years each employer's progress and good faith efforts toward meeting the applicable commute trip reduction goals. If an employer makes a good faith effort, as defined in this section, but is not likely to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to make modifications to the commute trip reduction program. Failure of an employer to reach the applicable commute trip reduction goals is not a violation of this chapter.

(4) If an employer fails to make a good faith effort and fails to meet the applicable commute trip reduction goals, the jurisdiction shall work collaboratively with the employer to propose modifications to the program and shall direct the employer to revise its program within thirty days to incorporate those modifications or modifications which the jurisdiction determines to be equivalent.

(5) Each jurisdiction implementing a commute trip reduction plan pursuant to this chapter may impose civil penalties, in the manner provided in chapter 7.80 RCW, for failure by an employer to implement a commute trip reduction program or to modify its commute trip reduction program as required in subsection (4) of this section. No major employer may be held liable for civil penalties for failure to reach the applicable commute trip reduction goals. No major employer shall be liable for civil penalties under this chapter if failure to achieve a commute trip reduction program goal was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith.

(6) Jurisdictions shall notify major employers of the procedures for applying for goal modification or exemption from the commute trip reduction requirements based on the guidelines established by the commute trip reduction ((~~task force~~)) board authorized under RCW 70.94.537.

Sec. 7. RCW 70.94.537 and 1997 c 250 s 5 are each amended to read as follows:

(1) A ((~~twenty-eight~~)) sixteen member state commute trip reduction ((~~task force~~)) board is established as follows:

(a) The secretary of the department of transportation or the secretary's designee who shall serve as chair;

(b) ((~~The director of the department of ecology or the director's designee;~~

~~(c) The director of the department of community, trade, and economic development or the director's designee;~~

~~(d) The director of the department of general administration or the director's designee;~~

~~(e) Three representatives from~~)) One representative from the office of the governor or the governor's designee;

(c) The director or the director's designee of one of the following agencies, to be determined by the governor:

(i) Department of general administration;

(ii) Department of ecology;

(iii) Department of community, trade, and economic development;

(d) Three representatives from cities and towns or counties appointed by the governor for staggered four-year terms from a list ((~~of at least six~~)) recommended by the association of Washington cities or the Washington state association of counties;

(~~(f) Three representatives from cities and towns appointed by the governor from a list of at least six recommended by the association of Washington cities;~~

~~(g) Three~~)) (e) Two representatives from transit agencies appointed by the governor for staggered four-year terms from a list ((~~of at least six~~)) recommended by the Washington state transit association;

(~~(h) Twelve~~)) (f) Two representatives from participating regional transportation planning organizations appointed by the governor for staggered four-year terms;

(g) Four representatives of employers at or owners of major worksites in Washington, or transportation management associations, business improvement areas, or other transportation organizations representing employers, appointed by the governor ((~~from a list recommended by the association of Washington business or other statewide business associations representing major employers, provided that every affected county shall have at least one representative; and~~

~~(i) Three~~)) for staggered four-year terms; and

(h) Two citizens appointed by the governor for staggered four-year terms.

Members of the commute trip reduction ((~~task force~~)) board shall serve without compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Members appointed by the governor shall be compensated in accordance with RCW 43.03.220. The ((~~task force~~)) board has all powers necessary to carry out its duties as prescribed by this chapter. ((~~The task force shall be dissolved on July 1, 2006.~~))

(2) By March 1, ((~~1992~~)) 2007, the ((~~commute trip reduction task force~~)) department of transportation shall establish ((~~guidelines~~)) rules for commute trip reduction plans and implementation procedures. The commute trip reduction board shall advise the department on the content of the rules. The ((~~guidelines~~)) rules are intended to ensure consistency in commute trip reduction plans and goals among jurisdictions while fairly taking into account differences in employment and housing density, employer size, existing and anticipated levels of transit service, special employer circumstances, and other factors the ((~~task force~~)) board determines to be relevant. The ((~~guidelines~~)) rules shall include:

(a) Guidance criteria for ((~~establishing commute trip reduction zones~~)) growth and transportation efficiency centers;

(b) ((~~Methods and information requirements for determining base year values of the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee~~)) Data measurement methods and procedures for determining the efficacy of commute trip reduction activities and progress toward meeting commute trip reduction plan goals;

(c) Model commute trip reduction ordinances;

(d) Methods for assuring consistency in the treatment of employers who have worksites subject to the requirements of this chapter in more than one jurisdiction;

(e) An appeals process by which major employers, who as a result of special characteristics of their business or its locations would be unable to meet the requirements of a commute trip reduction plan, may obtain a waiver or modification of those requirements and criteria for determining eligibility for waiver or modification;

(f) ((~~Methods to ensure that employers shall receive full credit for the results of transportation demand management efforts and commute trip reduction programs which have been implemented by major employers prior to the base year;~~

~~(g) Alternative commute trip reduction goals for major employers which cannot meet the goals of this chapter because of the unique nature of their business;~~

~~(h) Alternative commute trip reduction goals for major employers whose worksites change and who contribute substantially to traffic congestion in a trip reduction zone; and~~

~~(i) Methods to insure that employers receive credit for scheduling changes enacted pursuant to the criteria identified in RCW 70.94.527(11).~~

~~(3)~~)) Establishment of a process for determining the state's affected areas, including criteria and procedures for regional transportation planning organizations in consultation with local jurisdictions to propose to add or exempt urban growth areas;

(g) Listing of the affected areas of the program to be done every four years as identified in subsection (5) of this section;

(h) Establishment of a criteria and application process to determine whether jurisdictions that voluntarily implement commute trip reduction are eligible for state funding;

(i) Guidelines and deadlines for creating and updating local commute trip reduction plans, including guidance to ensure consistency between the local commute trip reduction plan and the transportation demand management strategies identified in the transportation element in the local comprehensive plan, as required by RCW 36.70A.070.

(j) Guidelines for creating and updating regional commute trip reduction plans, including guidance to ensure the regional commute trip reduction plan is consistent with and incorporated into transportation demand management components in the regional transportation plan;

(k) Methods for regional transportation planning organizations to evaluate and certify that designated growth and transportation efficiency center programs meet the minimum requirements and are eligible for funding;

(l) Guidelines for creating and updating growth and transportation efficiency center programs; and

(m) Establishment of statewide program goals. The goals shall be designed to achieve substantial reductions in the proportion of single-occupant vehicle commute trips and the commute trip vehicle miles traveled per employee, at a level that is projected to improve the mobility of people and goods by increasing the efficiency of the state highway system.

(3) The board shall create a state commute trip reduction plan that shall be updated every four years as discussed in subsection (5) of this section. The state commute trip reduction plan shall include, but is not limited to: (a) Statewide commute trip reduction program goals that are designed to substantially improve the mobility of people and goods; (b) identification of strategies at the state and regional levels to achieve the goals and recommendations for how transportation demand management strategies can be targeted most effectively to support commute trip reduction program goals; (c) performance measures for assessing the cost-effectiveness of commute trip reduction strategies and the benefits for the state transportation system; and (d) a sustainable financial plan. The board shall review and approve regional commute trip reduction plans, and work collaboratively with regional transportation planning organizations in the establishment of the state commute trip reduction plan.

(4) The ((~~task force~~)) board shall work with affected jurisdictions, major employers, and other parties to develop and implement a public awareness campaign designed to increase the effectiveness of local commute trip reduction programs and support achievement of the objectives identified in this chapter.

(~~(4) The task force shall assess the commute trip reduction options available to employers other than major employers and~~

~~make recommendations to the legislature by October 1, 1992. The recommendations shall include the minimum size of employer who shall be required to implement trip reduction programs and the appropriate methods those employers can use to accomplish trip reduction goals.~~))

(5) The board shall evaluate and update the commute trip reduction program plan and recommend changes to the rules every four years, with the first assessment report due July 1, 2011, to ensure that the latest data methodology used by the department of transportation is incorporated into the program and to determine which areas of the state should be affected by the program. The board shall review the definition of a major employer no later than December 1, 2009. The board shall regularly identify urban growth areas that are projected to be affected by this act in the next four-year period and may provide advance planning support to the potentially affected jurisdictions.

(6) The ((~~task force~~)) board shall review progress toward implementing commute trip reduction plans and programs and the costs and benefits of commute trip reduction plans and programs and shall make recommendations to the legislature and the governor by December 1, ((~~1995, December 1, 1999, December 1, 2001, December 1, 2003, and December 1, 2005~~)) 2009, and every two years thereafter. In assessing the costs and benefits, the ((~~task force~~)) board shall consider the costs of not having implemented commute trip reduction plans and programs with the assistance of the transportation performance audit board authorized under chapter 44.75 RCW. The ((~~task force~~)) board shall examine other transportation demand management programs nationally and incorporate its findings into its recommendations to the legislature. The recommendations shall address the need for continuation, modification, or termination or any or all requirements of this chapter. ((~~The recommendations made December 1, 1995, shall include recommendations regarding extension of the requirements of this chapter to employers with fifty or more full-timeemployees at a single worksite who begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for more than twelve continuous months.~~))

(7) The board shall invite personnel with appropriate expertise from state, regional, and local government, private, public, and nonprofit providers of transportation services, and employers or owners of major worksites in Washington to act as a technical advisory group. The technical advisory group shall advise the board on the implementation of local and regional commute trip reduction plans and programs, program evaluation, program funding allocations, and state rules and guidelines.

Sec. 8. RCW 70.94.541 and 1996 c 186 s 515 are each amended to read as follows:

(1) ((~~A technical assistance team shall be established under the direction of the department of transportation and include representatives of the department of ecology.~~)) The ((~~team~~)) department of transportation shall provide staff support to the commute trip reduction ((~~task force~~)) board in carrying out the requirements of RCW 70.94.537 ((~~and to the department of general administration in carrying out the requirements of RCW 70.94.551~~)).

(2) The ((~~team~~)) department of transportation shall provide technical assistance to regional transportation planning organizations, counties, cities, and towns, the department of general administration, other state agencies, and other employers in developing and implementing commute trip reduction plans and programs. The technical assistance shall include: (a) Guidance in ((~~determining base and subsequent year values of single-occupant vehicle commuting proportion and commute trip reduction vehicle miles traveled to be used in determining progress in attaining plan goals~~)) single measurement methodology and practice to be used in determining progress in attaining plan goals; (b) developing model plans and programs appropriate to different situations; and (c) providing consistent training and informational materials for the implementation of commute trip reduction programs. Model plans and programs, training, and informational materials shall be developed in cooperation with representatives of regional transportation planning organizations, local governments, transit agencies, and employers.

(3) In carrying out this section the department of transportation may contract with statewide associations representing cities, towns, and counties to assist cities, towns, and counties in implementing commute trip reduction plans and programs.

Sec. 9. RCW 70.94.544 and 2001 c 74 s 1 are each amended to read as follows:

A portion of the funds made available for the purposes of this chapter shall be used to fund the commute trip reduction ((~~task force~~)) board in carrying out the responsibilities of RCW ((~~70.94.541~~)) 70.94.537, and the ((~~interagency technical assistance team~~)) department of transportation, including the activities authorized under RCW 70.94.541(2), and to assist regional transportation planning organizations, counties, cities, and towns implementing commute trip reduction plans. The commute trip reduction board shall determine the allocation of program funds made available for the purposes of this chapter to regional transportation planning organizations, counties, cities, and towns implementing commute trip reduction plans. If state funds for the purposes of this chapter are provided to those jurisdictions implementing voluntary commute trip reduction plans, the funds shall be disbursed based on criteria established by the commute trip reduction board under RCW 70.94.537.

Sec. 10. RCW 70.94.547 and 1991 c 202 s 18 are each amended to read as follows:

The legislature hereby recognizes the state's crucial leadership role in establishing and implementing effective commute trip reduction programs. Therefore, it is the policy of the state that the department of general administration and other state agencies, including institutions of higher education, shall aggressively develop substantive programs to reduce commute trips by state employees. Implementation of these programs will reduce energy consumption, congestion in urban areas, and air and water pollution associated with automobile travel.

Sec. 11. RCW 70.94.551 and 1997 c 250 s 6 are each amended to read as follows:

(1) The director of ((~~general administration, with the concurrence of an interagency task force established for the purposes of this section, shall coordinate a commute trip reduction plan for state agencies which are phase 1 major employers by January 1, 1993~~)) the department of general administration may coordinate an interagency board for the purpose of developing policies or guidelines that promote consistency among state agency commute trip reduction programs required by RCW 70.94.527 and 70.94.531. The ((~~task force~~)) board shall include representatives of the departments of transportation ((~~and~~)), ecology, and community, trade, and economic development and such other departments and interested groups as the director of the department of general administration determines to be necessary ((~~to be generally representative of state agencies. The state agency plan shall be consistent with the requirements of RCW 70.94.527 and 70.94.531 and shall be developed in consultation with state employees, local and regional governments, local transit agencies, the business community, and other interested groups. The plan shall consider and recommend~~)). Policies and guidelines shall be applicable to all state agencies including but not limited to policies and guidelines regarding parking and parking charges, employee incentives for commuting by other than single-occupant automobiles, flexible and alternative work schedules, alternative worksites, and the use of state-owned vehicles for car and van pools and guaranteed rides home. The ((~~plan~~)) policies and guidelines shall also consider the costs and benefits to state agencies of achieving commute trip reductions and consider mechanisms for funding state agency commute trip reduction programs. ((~~The department shall, within thirty days,~~

~~submit a summary of its plan along with certification of adoption to the commute trip reduction task force established under RCW 70.94.537.~~))

(2) ((~~Not more than three months after the adoption of the commute trip reduction plan, each state agency shall, for each facility which is a major employer, develop a commute trip reduction program. The program shall be designed to meet the goals of the commute trip reduction plan of the county, city, or town or, if there is no local commute trip reduction plan, the state. The program shall be consistent with the policies of the state commute trip reduction plan and RCW 70.94.531. The agency shall submit a description of that program to the local jurisdiction implementing a commute trip reduction plan or, if there is no local commute trip reduction plan, to the department of general administration. The program shall be implemented not more than three months after submission to the department. Annual reports required in RCW 70.94.531(2)(c) shall be submitted to the local jurisdiction implementing a commute trip reduction plan and to the department of general administration. An agency which is not meeting the applicable commute trip reduction goals shall, to the extent possible, modify its program to comply with the recommendations of the local jurisdiction or the department of general administration.~~

~~(3)~~)) State agencies sharing a common location ((~~may~~)) in affected urban growth areas where the total number of state employees is one hundred or more shall, with assistance from the department of general administration, develop and implement a joint commute trip reduction program ((~~or may delegate the development and implementation of the commute trip reduction program to the department of general administration~~)). The worksite shall be treated as specified in RCW 70.94.531 and 70.94.534.

((~~(4)~~)) (3) The department of general administration ((~~in consultation with the state technical assistance team~~)) shall review the initial commute trip reduction program of each state agency subject to the commute trip reduction plan for state agencies to determine if the program is likely to meet the applicable commute trip reduction goals and notify the agency of any deficiencies. If it is found that the program is not likely to meet the applicable commute trip reduction goals, the ((~~team~~)) department of general administration will work with the agency to modify the program as necessary.

(((~~(5) For each agency subject to the state agency commute trip reduction plan, the department of general administration in consultation with the technical assistance team shall annually review progress toward meeting the applicable commute trip reduction goals. If it appears an agency is not meeting or is not likely to meet the applicable commute trip reduction goals, the team shall work with the agency to make modifications to the commute trip reduction program.~~

~~(6)~~)) (4) Each state agency implementing a commute trip reduction plan shall report at least once per year to its agency director on the performance of the agency's commute trip reduction program as part of the agency's quality management, accountability, and performance system as defined by RCW 43.17.385. The reports shall assess the performance of the program, progress toward state goals established under RCW 70.94.537, and recommendations for improving the program.

(5) The department of general administration shall review the agency performance reports defined in subsection (4) of this section and submit ((~~an annual progress~~)) a biennial report for state agencies subject to ((~~the state agency commute trip reduction plan to the commute trip reduction task force established under RCW 70.94.537. The report shall be due April 1, 1993, and each April 1st through 2006. The report shall report progress in attaining the applicable commute trip reduction goals for each commute trip reduction zone and shall highlight any problems being encountered in achieving the goals~~)) this chapter to the governor and incorporate the report in the commute trip reduction board report to the legislature as directed in RCW 70.94.537(6). The report shall include, but is not limited to, an evaluation of the most recent measurement results, progress toward state goals established under RCW 70.94.537, and recommendations for improving the performance of state agency commute trip reduction programs. The information shall be reported in a form established by the commute trip reduction ((~~task force~~)) board."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Eide moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6566 and ask the House to recede therefrom.

Senators Eide spoke in favor of the motion.

MOTION

On motion of Senator Schoesler, Senators Mulliken, Finkbeiner, Pflug, Brandland, Benton, McCaslin, Deccio and Delvin were excused.

MOTION

On motion of Senator Regala, Senators Haugen and Poulsen were excused.

The President declared the question before the Senate to be motion by Senator Eide that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6566 and ask the House to recede therefrom.

The motion by Senator Eide carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6566 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 3, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6325, with the following amendments{s} 6325-S AMH CLEM MORI 060.

On page 1, line 5, after "**Sec. 1.**" insert "(1)"

On page 1, line 8, after "subject matter." insert "The state preemption created in this section applies to all rules, regulations, codes, statutes, and ordinances pertaining to residency restrictions for persons convicted of any sex offense at any time."

On page 1, after line 8, insert:

"(2) This section does not apply to rules, regulations, codes, statutes, or ordinances adopted by cities, counties, municipalities, or local agencies prior to March 1, 2006, except as required by an order issued by a court of competent jurisdiction pursuant to litigation regarding the rules, regulations, codes, statutes, or ordinances.

(3) This section expires one year after the effective date of this act."

On page 1, after line 12, insert:

"NEW SECTION. **Sec. 3.** (1) The association of Washington cities, working with the cities and towns of Washington state, shall develop statewide standards for cities and towns to consider when determining whether to impose residency restrictions on sex offenders within their jurisdiction.

(2) The association of Washington cities shall be encouraged to work in consultation with a representative from each of the following agencies and organizations:

(a) The attorney general of Washington;

(b) The Washington state association of counties;

(c) The department of community, trade, and economic development;

(d) The department of corrections;

(e) The Washington association of sheriffs and police chiefs; and

(f) Any other agencies and organizations as deemed appropriate by the association of Washington cities, such as the Washington association of prosecuting attorneys, the juvenile rehabilitation administration of the department of social and health services, the indeterminate sentence review board, the Washington association for the treatment of sexual abusers, and the Washington coalition of sexual assault programs.

(3) The statewide standards for whether to impose residency restrictions on sex offenders should consider the following elements:

(a) An identification of areas in which sex offenders should not reside due to concerns regarding public safety and welfare;

(b) An identification of areas in which sex offenders may reside, taking into consideration factors such as:

(i) How many housing units must reasonably be available in order to accommodate registered sex offenders in a city or town;

(ii) The average response time of emergency services to the areas;

(iii) The proximity of risk potential activities to the areas; and

(iv) The proximity of medical care, mental health care providers, and sex offender treatment providers to the areas;

(c) A prohibition against completely precluding sex offender residences within a city or town, implicating a sex offender's right to travel, or enacting a criminal regulatory measure;

(d) Appropriate civil remedies for violations of a local ordinance; and

(e) Unique local conditions that should be given due deference, such as proximity to state facilities that house or treat sex offenders.

(4) The association of Washington cities, on behalf of the cities and towns in Washington, shall present the statewide standards, along with any recommendations and proposed legislation, to the governor and the legislature no later than December 31, 2006."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Regala moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6325 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Regala that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6325 and ask the House to recede therefrom.

The motion by Senator Regala carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6325 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6362, with the following amendments{s} 6362-S AMH SGOA LEAT 054, 6362-S AMH NIXO LEAT 086, 6362-S AMH NIXO LEAT 072, 6362-S AMH NIXO LEAT 073, 6362-S AMH NIXO LEAT 075, 6362-S AMH NIXO LEAT 076, 6362-S AMH NIXO LEAT 077.

On page 4, line 27, after "attorney" strike all material through "day" on line 28 and insert "at any time"

On page 4, line 29, after "day" insert "regarding a voter who presents himself or herself to vote at the poll site"

On page 2, line 10, after "(3)" strike "Mailing address, if different from the residential address;"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 2, after line 20 insert:

"The residential address provided must identify the actual physical residence of the voter in Washington, as defined in RCW 29A.04.151, with detail sufficient to allow the voter to be assigned to the proper precinct and to locate the voter to confirm his or her residence for purposes of verifying qualification to vote under Article VI, section 1 of the state Constitution. A residential address may be either a "traditional address" or a "non-traditional address." A traditional address consists of a street number and name, optional apartment number or unit number, and city or town, as assigned by a local government, which serves to identify the parcel or building of residence and the unit if a multi-unit residence. A non-traditional address consists of a narrative description of the location of the voter's residence, and may be used when a traditional address has not been assigned to the voter's residence. If the postal service does not deliver mail to the voter's residential address, or the voter prefers to receive mail at a different address, the voter may separately provide the mailing address at which they receive mail. Any mailing address provided shall be used only for mail delivery purposes and not for precinct assignment or confirmation of residence for voter qualification purposes."

On page 3, line 1, after "~~the~~" strike all material through "residence. ((" on line 3 and insert "~~county courthouse, city hall, or other public building near the area that the voter considers his or her residence.~~"

On page 4, beginning on line 8, strike all of subsection (c)through "located" on line 22 and insert the following:

"(c) The challenged voter does not live at the residential address provided, in which case the challenger must either:

(i) Provide the challenged voter's actual residence; or

(ii) Submit evidence that he or she exercised due diligence to verify that the challenged voter does not reside at the address provided and to attempt to contact the challenged voter to learn the challenged voter's actual residence, including that the challenger personally:

(A) Sent a letter with return receipt requested to the challenged voter's residential address provided, and to the challenged voter's mailing address, if provided;

(B) Visited the residential address provided to contact persons at the address to determine whether the voter resides at the address and, if not, to attempt to obtain the voter's current address;

(C) Searched local telephone directories, including online directories, to determine whether the voter maintains a telephone listing at any address in the county;

(D) Searched county auditor property records to determine whether the challenged voter owns any property in the county; and

(E) Searched the statewide voter registration database to determine if the voter is registered at any other address in the state"

On page 4, line 32, after "belief," insert "having exercised due diligence to personally verify the evidence presented,"

On page 6, line 12, after "special," insert "or within ten days of the voter being added to the voter registration database, whichever is later,"

On page 6, line 20, after "made" insert "immediately"

On page 9, line 10, after "available" insert ". A challenge is not required to be submitted on the provided voter challenge form, but may be prepared using an official electronic voter challenge form template provided by the auditor or secretary of

state that has been printed and signed by the challenger for submission"

On page 1, beginning on line 6, strike all of section 1 and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 29A.08 RCW to read as follows:

The county auditor shall, within seventy-two hours of receipt, publish on the auditor's internet web site the entire content of any voter challenge filed under chapter 29A.08 RCW. Immediately after publishing any voter challenge, the county auditor shall notify any person who requests to receive such notifications on an ongoing basis."

On page 7, line 36, after "provide to" strike "each party representative" and insert "any person, upon request,"

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s), but do not concur in the House amendment(s) on page 4, line 8 to Substitute Senate Bill No. 6362.

Senator Kohl-Welles spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) on page 4, line 27; page 2, line 10; page 6, line 12; and page 9, line 10 but do not concur in the House amendment(s) to page 4, line 8 to Substitute Senate Bill No. 6362.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6362 but do not concur in the House amendment to page 4, line 8 and ask the House to receded therefrom by voice vote.

MOTION

On motion of Senator Honeyford, Senator Parlette was excused.

MESSAGE FROM THE HOUSE

March 6, 2006

MR. PRESIDENT:

The House suspended the rules and returned SENATE BILL NO. 6415 to second reading for purpose of amendment. The House passed the bill with the following amendments{s} 6415 AMH HUDG H5532.1.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.20.130 and 1999 c 6 s 20 are each amended to read as follows:

(1) The director shall prescribe the content of the driver licensing examination and the manner of conducting the examination, which shall include but is not limited to:

(a) A test of the applicant's eyesight and ability to see, understand, and follow highway signs regulating, warning, and directing traffic;

(b) A test of the applicant's knowledge of traffic laws and ability to understand and follow the directives of lawful authority, orally or graphically, that regulate, warn, and direct traffic in accordance with the traffic laws of this state;

(c) An actual demonstration of the applicant's ability to operate a motor vehicle without jeopardizing the safety of persons or property. If the applicant is deaf or hearing impaired, the applicant may be accompanied by an interpreter to assist the applicant during the demonstration. The interpreter will be of the applicant's choosing from a list provided by the department of licensing; and

(d) Such further examination as the director deems necessary:

(i) To determine whether any facts exist that would bar the issuance of a vehicle operator's license under chapters 46.20, 46.21, and 46.29 RCW; and

(ii) To determine the applicant's fitness to operate a motor vehicle safely on the highways.

(2) If the applicant desires to drive a motorcycle or a motor-driven cycle he or she must qualify for a motorcycle endorsement under RCW 46.20.500 through 46.20.515.

NEW SECTION. **Sec. 2.** This act does not affect the right of state employees to collectively bargain wages, hours, and other terms and conditions of employment under chapter 41.80 RCW."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Senate Bill No. 6415.

Senator Pridemore spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Senate Bill No. 6415.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6415 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6415, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6415, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Absent: Senator Jacobsen - 1

Excused: Senators Finkbeiner, Haugen, Mulliken and Parlette - 4

SENATE BILL NO. 6415, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2006

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 6519, with the following amendments{s} 6519-S AMH STRO MORI 059.

On page 9, line 9, after "level" insert "II or"

On page 9, line 10, after "registered" strike ", for a period of five years"

On page 9, beginning on line 12, after "hours." strike all material through "days." on line 15

On page 20, line 3, after "level" insert "II or"

On page 20, line 4, after "registered" strike ", for a period of five years"

On page 20, beginning on line 6, after "hours." strike all material through "days." on line 9

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6519 and ask the House to recede therefrom.

Senators Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6519 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6519 and asked the House to recede therefrom.

MOTION

On motion of Senator Regala, Senator Jacobsen was excused.

MESSAGE FROM THE HOUSE

March 4, 2006

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2416 and asks Senate to recede therefrom.

and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate recede from its position on the Senate amendment(s) to Substitute House Bill No. 2416.

Senator Jacobsen spoke in favor of the motion.

Senator Zarelli spoke against the motion.

The President declared the question before the Senate to be motion by Senator Jacobsen that the Senate recede from its position on the Senate amendment(s) to Substitute House Bill No. 2416.

The motion by Senator Jacobsen carried and the Senate receded from its position on the Senate amendment(s) to Substitute House Bill No. 2416.

MOTION

On motion of Senator Jacobsen, the rules were suspended and Substitute House Bill No. 2416 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2416, by House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Kessler, Hasegawa, Hunt, Haigh, McIntire, Dunshee, B. Sullivan and Takko)

Establishing an optional state parks vehicle registration fee. Revised for 1st Substitute: Concerning state park fees.

The measure was read the second time.

MOTION

Senator Jacobsen moved that the following striking amendment by Senator Jacobsen be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 79A.05.070 and 2003 c 186 s 1 are each amended to read as follows:

The commission may:

(1) Make rules and regulations for the proper administration of its duties;

(2) Accept any grants of funds made with or without a matching requirement by the United States, or any agency thereof, for purposes in keeping with the purposes of this chapter; accept gifts, bequests, devises and endowments for purposes in keeping with such purposes; enter into cooperative agreements with and provide for private nonprofit groups to use state park property and facilities to raise money to contribute gifts, grants, and support to the commission for the purposes of this chapter. The commission may assist the nonprofit group in a cooperative effort by providing necessary agency personnel and services, if available. However, none of the moneys raised may inure to the benefit of the nonprofit group, except in furtherance of its purposes to benefit the commission as provided in this chapter. The agency and the private nonprofit group shall agree on the nature of any project to be supported by such gift or grant prior to the use of any agency property or facilities for raising money. Any such gifts may be in the form of recreational facilities developed or built in part or in whole for public use on agency property, provided that the facility is consistent with the purposes of the agency;

(3) Require certification by the commission of all parks and recreation workers employed in state aided or state controlled programs;

(4) Act jointly, when advisable, with the United States, any other state agencies, institutions, departments, boards, or commissions in order to carry out the objectives and responsibilities of this chapter;

(5) Grant franchises and easements for any legitimate purpose on parks or parkways, for such terms and subject to such conditions and considerations as the commission shall specify;

(6) Charge such fees for services, utilities, and use of facilities as the commission shall deem proper. The commission may not charge fees for general park access or parking;

(7) Enter into agreements whereby individuals or companies may rent undeveloped parks or parkway land for grazing, agricultural, or mineral development purposes upon such terms and conditions as the commission shall deem proper, for a term not to exceed forty years;

(8) Determine the qualifications of and employ a director of parks and recreation who shall receive a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040 and determine the qualifications and salary of and employ such

other persons as may be needed to carry out the provisions hereof; and

(9) Without being limited to the powers hereinbefore enumerated, the commission shall have such other powers as in the judgment of a majority of its members are deemed necessary to effectuate the purposes of this chapter: PROVIDED, That the commission shall not have power to supervise directly any local park or recreation district, and no funds shall be made available for such purpose.

NEW SECTION. **Sec. 2.** 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 April 9, 2006."

Senators Jacobsen, Oke and Roach spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Jacobsen and Oke to Substitute House Bill No. 2416.

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

MOTION

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

On page 1, line 1 of the title, after "fees;" strike the remainder of the title and insert "amending RCW 79A.05.070; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 2416 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Oke spoke in favor of passage of the bill.

MOTION

On motion of Senator Schoesler, Senator Benson was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2416 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2416 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Honeyford, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker and Zarelli - 43

Voting nay: Senators Jacobsen, Regala, Thibaudeau and Weinstein - 4

Excused: Senators Haugen and Mulliken - 2

SUBSTITUTE HOUSE BILL NO. 2416 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Boys & Girls Club of America who were seated in the gallery.

SIGNED BY THE PRESIDENT

The President signed:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1020,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1080,
SUBSTITUTE HOUSE BILL NO. 1107,
THIRD SUBSTITUTE HOUSE BILL NO. 1226,
SUBSTITUTE HOUSE BILL NO. 1257,
SUBSTITUTE HOUSE BILL NO. 1510,
SUBSTITUTE HOUSE BILL NO. 1650,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1850,
SECOND SUBSTITUTE HOUSE BILL NO. 2002,
ENGROSSED HOUSE BILL NO. 2322,
HOUSE BILL NO. 2348,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2353,
HOUSE BILL NO. 2381,
SUBSTITUTE HOUSE BILL NO. 2382,
SUBSTITUTE HOUSE BILL NO. 2384,
SUBSTITUTE HOUSE BILL NO. 2415,
SUBSTITUTE HOUSE BILL NO. 2457,
SUBSTITUTE HOUSE BILL NO. 2471,
SUBSTITUTE HOUSE BILL NO. 2543,
SUBSTITUTE HOUSE BILL NO. 2573,
SUBSTITUTE HOUSE BILL NO. 2596,
HOUSE BILL NO. 2617,
ENGROSSED THIRD SUBSTITUTE HOUSE BILL NO. 2939,
HOUSE BILL NO. 2972,
SUBSTITUTE HOUSE BILL NO. 2974,
HOUSE BILL NO. 2975,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2984,
SUBSTITUTE HOUSE BILL NO. 2985,
HOUSE BILL NO. 3139,
HOUSE BILL NO. 3156,
SUBSTITUTE HOUSE BILL NO. 3178,
SUBSTITUTE HOUSE BILL NO. 3182,
HOUSE BILL NO. 3277,

MESSAGE FROM THE HOUSE

March 4, 2006

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2475 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate recede from its position on the Senate amendment(s) to Engrossed Substitute House Bill No. 2475.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kohl-Welles that the Senate recede from its position on the Senate amendment(s) to Engrossed Substitute House Bill No. 2475.

The motion by Senator Kohl-Welles carried and the Senate

receded from its amendments to Engrossed Substitute House Bill No. 2475.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended and Engrossed Substitute House Bill No. 2475 was returned to second reading for the purposes of amendment.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the rules be suspended and Engrossed Substitute House Bill No. 2475 be returned to second reading for the purposes of amendment.

The motion by Senator Kohl-Welles carried by voice vote.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2475, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Williams, Fromhold, Wood, B. Sullivan, Simpson, Sells, Ormsby and Green)

Requiring collective bargaining regarding hours of work for individual providers.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.39A.270 and 2004 c 3 s 1 are each amended to read as follows:

(1) Solely for the purposes of collective bargaining and as expressly limited under subsections (2) and (3) of this section, the governor is the public employer, as defined in chapter 41.56 RCW, of individual providers, who, solely for the purposes of collective bargaining, are public employees as defined in chapter 41.56 RCW. To accommodate the role of the state as payor for the community-based services provided under this chapter and to ensure coordination with state employee collective bargaining under chapter 41.80 RCW and the coordination necessary to implement RCW 74.39A.300, the public employer shall be represented for bargaining purposes by the governor or the governor's designee appointed under chapter 41.80 RCW. The governor or governor's designee shall periodically consult with the authority during the collective bargaining process to allow the authority to communicate issues relating to the long-term in-home care services received by consumers. The governor or the governor's designee shall consult the authority on all issues for which the exclusive bargaining representative requests to engage in collective bargaining under subsection (6) of this section. The authority shall work with the developmental disabilities council, the governor's committee on disability issues and employment, the state council on aging, and other consumer advocacy organizations to obtain informed input from consumers on their interests, including impacts on consumer choice, for all issues proposed for collective bargaining under subsection (6) of this section.

(2) Chapter 41.56 RCW governs the collective bargaining relationship between the governor and individual providers, except as otherwise expressly provided in this chapter and except as follows:

(a) The only unit appropriate for the purpose of collective bargaining under RCW 41.56.060 is a statewide unit of all individual providers;

(b) The showing of interest required to request an election under RCW 41.56.060 is ten percent of the unit, and any intervener seeking to appear on the ballot must make the same showing of interest;

(c) The mediation and interest arbitration provisions of RCW 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

(i) With respect to commencement of negotiations between the governor and the bargaining representative of individual providers, negotiations shall be commenced by May 1st of any year prior to the year in which an existing collective bargaining agreement expires;

(ii) With respect to factors to be taken into consideration by an interest arbitration panel, the panel shall consider the financial ability of the state to pay for the compensation and fringe benefit provisions of a collective bargaining agreement; and

(iii) The decision of the arbitration panel is not binding on the legislature and, if the legislature does not approve the request for funds necessary to implement the compensation and fringe benefit provisions of the arbitrated collective bargaining agreement, is not binding on the authority or the state;

(d) Individual providers do not have the right to strike; and

(e) Individual providers who are related to, or family members of, consumers or prospective consumers are not, for that reason, exempt from this chapter or chapter 41.56 RCW.

(3) Individual providers who are public employees solely for the purposes of collective bargaining under subsection (1) of this section are not, for that reason, employees of the state, its political subdivisions, or an area agency on aging for any purpose. Chapter 41.56 RCW applies only to the governance of the collective bargaining relationship between the employer and individual providers as provided in subsections (1) and (2) of this section.

(4) Consumers and prospective consumers retain the right to select, hire, supervise the work of, and terminate any individual provider providing services to them. Consumers may elect to receive long-term in-home care services from individual providers who are not referred to them by the authority.

(5) In implementing and administering this chapter, neither the authority nor any of its contractors may reduce or increase the hours of service for any consumer below or above the amount determined to be necessary under any assessment prepared by the department or an area agency on aging.

(6) Except as expressly limited in this section and RCW 74.39A.300, the wages, hours, and working conditions of individual providers are determined solely through collective bargaining as provided in this chapter. No agency or department of the state((, other than the authority,)) may establish policies or rules governing the wages or hours of individual providers. However, this subsection does not modify:

(a) The department's authority to establish a plan of care for each consumer ((and to determine the hours)) or its core responsibility to manage long-term in-home care services under this chapter, including determination of the level of care that each consumer is eligible to receive. However, at the request of the exclusive bargaining representative, the governor or the governor's designee appointed under chapter 41.80 RCW shall engage in collective bargaining, as defined in RCW 41.56.030(4), with the exclusive bargaining representative over how the department's core responsibility affects hours of work for individual providers. This subsection shall not be interpreted to require collective bargaining over an individual consumer's plan of care;

(b) The department's authority to terminate its contracts with individual providers who are not adequately meeting the needs of a particular consumer, or to deny a contract under RCW 74.39A.095(8);

(c) The consumer's right to assign hours to one or more individual providers selected by the consumer within the maximum hours determined by his or her plan of care;

(d) The consumer's right to select, hire, terminate, supervise the work of, and determine the conditions of employment for each individual provider providing services to the consumer under this chapter;

(e) The department's obligation to comply with the federal medicaid statute and regulations and the terms of any community-based waiver granted by the federal department of health and human services and to ensure federal financial participation in the provision of the services; and

(f) The legislature's right to make programmatic modifications to the delivery of state services under this title, including standards of eligibility of consumers and individual providers participating in the programs under this title, and the nature of services provided. The governor shall not enter into, extend, or renew any agreement under this chapter that does not expressly reserve the legislative rights described in this subsection (6)(f).

(7)(a) The state, the department, the authority, the area agencies on aging, or their contractors under this chapter may not be held vicariously or jointly liable for the action or inaction of any individual provider or prospective individual provider, whether or not that individual provider or prospective individual provider was included on the authority's referral registry or referred to a consumer or prospective consumer. The existence of a collective bargaining agreement, the placement of an individual provider on the referral registry, or the development or approval of a plan of care for a consumer who chooses to use the services of an individual provider and the provision of case management services to that consumer, by the department or an area agency on aging, does not constitute a special relationship with the consumer.

(b) The members of the board are immune from any liability resulting from implementation of this chapter.

(8) Nothing in this section affects the state's responsibility with respect to unemployment insurance for individual providers. However, individual providers are not to be considered, as a result of the state assuming this responsibility, employees of the state.

NEW SECTION. **Sec. 2.** 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."

Senators Kohl-Welles and Parlette spoke in favor of adoption of the striking amendment.

MOTION

On motion of Senator Regala, Senators Doumit and Jacobsen were excused.

MOTION

On motion of Senator Schoesler, Senator Zarelli was excused.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Kohl-Welles to Engrossed Substitute House Bill No. 2475.

The motion by Senator Kohl-Welles carried and the striking amendment was adopted by voice vote.

MOTION

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

On page 1, line 2 of the title, after "providers;" strike the remainder of the title and insert "amending RCW 74.39A.270; and declaring an emergency."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 2475 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2475 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2475 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 42

Voting nay: Senators Deccio, Honeyford and Morton - 3

Excused: Senators Doumit, Haugen, Mulliken and Zarelli - 4

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2475 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2006

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3098 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate recede from its position on the Senate amendment(s) to Engrossed Second Substitute House Bill No. 3098.

Senator McAuliffe spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate recede from its position on the Senate amendment(s) to Engrossed Second Substitute House Bill No. 3098.

The motion by Senator McAuliffe carried and the Senate receded from its position on the Senate amendment(s) to Engrossed Second Substitute House Bill No. 3098.

MOTION

On motion of Senator McAuliffe, the rules were suspended and Engrossed Second Substitute House Bill No. 3098 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3098, by House Committee on Capital Budget (originally sponsored by Representatives McDermott, Talcott and Quall)

Transferring duties of the reconstituted state board of education.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following amendment by Senator McAuliffe to the committee striking amendment be adopted.

On page 99, beginning on line 30 of the amendment, after ";" strike all material through "~~(5)~~))" on line 31, and insert "and (((~~(5)~~))"

Beginning on page 99, line 37 of the amendment, after "28A.645.030" strike all material through "subsection" on page 100, line 8

On page 100, beginning on line 9 of the amendment, strike all of section 905 and insert the following:

"NEW SECTION. **Sec. 905.** A new section is added to chapter 28A.600 RCW to read as follows:

By July 1, 2006, the Washington interscholastic activities association shall establish a nine-person appeals committee to address appeals of noneligibility issues. The committee shall be comprised of the secretary from each of the activity districts of the Washington interscholastic activities association. The committee shall begin hearing appeals by July 1, 2006. No committee member may participate in the appeal process if the member was involved in the activity that was the basis of the appeal. A decision of the appeals committee may be appealed to the executive board of the association."

Senator McAuliffe spoke in favor of adoption of the amendment to the committee striking amendment.

MOTION

On motion of Senator Schoesler, Senators Benton and Parlette were excused.

REMARKS BY THE PRESIDENT

President Owen: "The President needs to explain the situation that we're in right now. You receded from the amendment, the striking amendment and the amendment. That Senator McAuliffe has offered is to that striking amendment, to do what you want to accomplish. So, in fact, since you did recede from the striking amendment we need to reintroduce it and then amend it with this. You do not have it on your desk. If any member wishes to have that passed out we will do that. Otherwise, we will move forward at this time with the adoption of striking amendment. Senator McAuliffe, did you wish to move adoption of that striking amendment?"

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Early Learning, K-12 & Higher Education be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1** In 2005, the legislature reconstituted the state board of education to refocus its purpose; abolished the academic achievement and accountability commission; and assigned policy and rule-making authority for educator preparation and certification to the professional educator standards board. The purpose of this act is to address the remaining statutory responsibilities of the state board of education held before 2005. The legislature finds that some duties should be retained with the reconstituted board; many duties should be transferred to other agencies or organizations, primarily but not exclusively to the superintendent of public instruction; and some duties should be repealed. This act also corrects statutes to implement fully the transfer of responsibilities authorized in 2005.

PART 1
NEW STATE BOARD OF EDUCATION

NEW SECTION. **Sec. 101** The legislature encourages the members of the new state board of education to review the transfer of duties from the state board to other entities made in this act and if any of the duties that were transferred away from the state board are necessary for the board to accomplish the purpose set out in this act then the state board shall come back to the legislature to request those necessary duties to be returned to the state board of education. The state board of education is encouraged to make such a request by January 15, 2007.

Sec. 102 RCW 28A.305.130 and 2005 c 497 s 104 are each amended to read as follows: The purpose of the state board of education is to ((~~adopt statewide policies that promote achievement of the goals of RCW 28A.150.210; implement a standards-based accountability system; and provide leadership in the creation of an education system that respects the diverse cultures, abilities, and learning styles of all students~~))provide advocacy and strategic oversight of public education; implement a standards-based accountability system to improve student academic achievement; provide leadership in the creation of a system that personalizes education for each student and respects diverse cultures, abilities, and learning styles; and promote achievement of the goals of RCW 28A.150.210. In addition to any other powers and duties as provided by law, the state board of education shall:

(1) ((~~Until January 1, 2006, approve or disapprove the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.~~

~~(2) Until January 1, 2006, conduct every five years a review of the program approval standards, including the minimum standards for teachers, administrators, and educational staff associates, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and educational staff associates.~~

~~(3) Until January 1, 2006, investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) of~~

~~this section, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.~~

~~(4) Until January 1, 2006:~~

~~(a) Adopt rules to allow a teacher certification candidate to fulfill, in part, teacher preparation program requirements through work experience as a classified teacher's aide in a public school or private school meeting the requirements of RCW 28A.195.010. The rules shall include, but are not limited to, limitations based upon the recency of the teacher preparation candidate's teacher aide work experience, and limitations based on the amount of work experience that may apply toward teacher preparation program requirements under this chapter; and~~

~~(b) Require that at the time of the individual's enrollment in a teacher preparation program, the supervising teacher and the building principal shall jointly provide to the teacher preparation program of the higher education institution at which the teacher candidate is enrolled, a written assessment of the performance of the teacher candidate. The assessment shall contain such information as determined by the state board of education and shall include: Evidence that at least fifty percent of the candidate's work as a classified teacher's aide was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours for one school year; the type of work performed by the candidate; and a recommendation of whether the candidate's work experience as a classified teacher's aide should be substituted for teacher preparation program requirements. In compliance with such rules as may be established by the state board of education under this section, the teacher preparation programs of the higher education institution where the candidate is enrolled shall make the final determination as to what teacher preparation program requirements may be fulfilled by teacher aide work experience.~~

~~(5) Until January 1, 2006, supervise the issuance of such certificates as provided for in subsection (1) of this section and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.410.010.~~

~~(6)~~)) Hold regularly scheduled meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business((~~.~~));

(((~~(7)~~))) (2) Form committees as necessary to effectively and efficiently conduct the work of the board((~~.~~));

(((~~(8)~~))) (3) Seek advice from the public and interested parties regarding the work of the board((~~.~~));

(((~~(9)~~))) (4) For purposes of statewide accountability((~~, the board shall~~)):

(a) Adopt and revise performance improvement goals in reading, writing, science, and mathematics, by subject and grade level, once assessments in these subjects are required statewide; academic and technical skills, as appropriate, in secondary career and technical education programs; and student attendance, as the board deems appropriate to improve student learning. The goals shall be consistent with student privacy protection provisions of RCW 28A.655.090(7) and shall not conflict with requirements contained in Title I of the federal elementary and secondary education act of 1965, or the requirements of the Carl D. Perkins vocational education act of 1998, each as amended. The goals may be established for all students, economically disadvantaged students, limited English proficient students, students with disabilities, and students from disproportionately academically underachieving racial and ethnic backgrounds. The board may establish school and school district goals addressing high school graduation rates and dropout reduction goals for students in grades seven through twelve. The board shall adopt the goals by rule. However, before each goal is implemented, the board shall present the goal to the education committees of the house of representatives and the senate for the committees' review and comment in a time frame that will permit the legislature to take statutory action on the goal if such action is deemed warranted by the legislature;

(b) Identify the scores students must achieve in order to meet the standard on the Washington assessment of student learning and, for high school students, to obtain a certificate of academic achievement. The board shall also determine student scores that identify levels of student performance below and beyond the standard. The board shall consider the incorporation of the standard error of measurement into the decision regarding the award of the certificates. The board shall set such performance standards and levels in consultation with the superintendent of public instruction and after consideration of any recommendations that may be developed by any advisory committees that may be established for this purpose. The initial performance standards and any changes recommended by the board in the performance standards for the tenth grade assessment shall be presented to the education committees of the house of representatives and the senate by November 30th of the school year in which the changes will take place to permit the legislature to take statutory action before the changes are implemented if such action is deemed warranted by the legislature. The legislature shall be advised of the initial performance standards and any changes made to the elementary level performance standards and the middle school level performance standards;

(c) Adopt objective, systematic criteria to identify successful schools and school districts and recommend to the superintendent of public instruction schools and districts to be recognized for two types of accomplishments, student achievement and improvements in student achievement. Recognition for improvements in student achievement shall include consideration of one or more of the following accomplishments:

(i) An increase in the percent of students meeting standards. The level of achievement required for recognition may be based on the achievement goals established by the legislature and by the board under (a) of this subsection;

(ii) Positive progress on an improvement index that measures improvement in all levels of the assessment; and

(iii) Improvements despite challenges such as high levels of mobility, poverty, English as a second language learners, and large numbers of students in special populations as measured by either the percent of students meeting the standard, or the improvement index. When determining the baseline year or years for recognizing individual schools, the board may use the assessment results from the initial years the assessments were administered, if doing so with individual schools would be appropriate;

(d) Adopt objective, systematic criteria to identify schools and school districts in need of assistance and those in which significant numbers of students persistently fail to meet state standards. In its deliberations, the board shall consider the use of all statewide mandated criterion-referenced and norm-referenced standardized tests;

(e) Identify schools and school districts in which state intervention measures will be needed and a range of appropriate intervention strategies after the legislature has authorized a set of intervention strategies. After the legislature has authorized a

set of intervention strategies, at the request of the board, the superintendent shall intervene in the school or school district and take corrective actions. This chapter does not provide additional authority for the board or the superintendent of public instruction to intervene in a school or school district;

(f) Identify performance incentive systems that have improved or have the potential to improve student achievement;

(g) Annually review the assessment reporting system to ensure fairness, accuracy, timeliness, and equity of opportunity, especially with regard to schools with special circumstances and unique populations of students, and a recommendation to the superintendent of public instruction of any improvements needed to the system; and

(h) Include in the biennial report required under RCW 28A.305.035, information on the progress that has been made in achieving goals adopted by the board((~~.~~));

((~~(10)~~)) (5) Accredit, subject to such accreditation standards and procedures as may be established by the state board of education, allprivate schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve: PROVIDED, That no private school may be approved that operates a kindergarten program only: PROVIDED FURTHER, That no ((~~public or~~)) private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials((~~: PROVIDED FURTHER, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such preaccreditation examination and evaluation processes as may now or hereafter be established by the board.~~

~~(11) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.~~

~~(12) Prepare such outline of study for the common schools as the board shall deem necessary, and in conformance with legislative requirements, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.~~

~~(13) Continuously reevaluate courses and other requirements and adopt and enforce regulations within the common schools so as to meet the educational needs of students.~~

~~(14) Evaluate course of study requirements and~~));

(6) Articulate with the institutions of higher education, work force representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system((~~.~~));

((~~(15) Carry out board powers and duties relating to the organization and reorganization of school districts.~~

~~(16) Hear and decide appeals as otherwise provided by law.~~

~~(17) Promulgate information and rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools.~~

~~(18)~~)) (7) Hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes. Any other personnel of the board shall be appointed as provided by RCW 28A.300.020. The executive director, administrative assistant, and all but one of the other personnel of the board are exempt from civil service, together with other staff as now or hereafter designated as exempt in accordance with chapter 41.06 RCW((~~.~~)); and

((~~(19)~~)) (8) Adopt a seal that shall be kept in the office of the superintendent of public instruction.

Sec. 103 RCW 28A.305.035 and 2005 c 497 s 103 are each amended to read as follows: (1) By October 15th of each even-numbered year, the state board of education and the professional educator standards board shall submit a joint report to the legislative education committees, the governor, and the superintendent of public instruction. The report shall address the progress the boards have made and the obstacles they have encountered, individually and collectively, in the work of achieving the goals in RCW 28A.150.210.

(2) The state board of education shall include the chairs and ranking minority members of the legislative education committees in board communications so that the legislature can be kept apprised of the discussions and proposed actions of the board.

Sec. 104 RCW 28A.300.040 and 2005 c 360 s 6 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state;

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools;

(3) To prepare and have printed such forms, registers, courses of study, rules for the government of the common schools, and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents;

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, and of consulting educational service district superintendents or other school officials;

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system and which shall be sold at approximate actual cost of publication and distribution per volume to all other public and nonpublic agencies or individuals, said manual to contain Titles 28A and 28C RCW, rules related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount;

(6) ((~~To act as ex officio member and the chief executive officer of the state board of education;~~

~~(7)~~)) To file all papers, reports and public documents transmitted to the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in the superintendent's office, and the superintendent's official acts, may, or upon request, shall be certified by the superintendent and attested by the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to;

((~~(8)~~)) (7) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report as required by the superintendent of public instruction; and it is the duty of every

president, manager, or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct;

((~~(9)~~)) (8) To keep in the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state;

((~~(10)~~)) (9) To issue certificates as provided by law;

((~~(11)~~)) (10) To keep in the superintendent's office at the capital of the state, all books and papers pertaining to the business of the superintendent's office, and to keep and preserve in the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education;

((~~(12)~~)) (11) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to the superintendent in writing by any educational service district superintendent, or that may be submitted to the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and the superintendent's decision shall be final unless set aside by a court of competent jurisdiction;

((~~(13)~~)) (12) To administer oaths and affirmations in the discharge of the superintendent's official duties;

((~~(14)~~)) (13) To deliver to his or her successor, at the expiration of the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to the superintendent's office or which may have been received by the superintendent's for the use of the superintendent's office;

((~~(15)~~)) (14) To administer family services and programs to promote the state's policy as provided in RCW 74.14A.025;

((~~(16)~~)) (15) To promote the adoption of school-based curricula and policies that provide quality, daily physical education for all students, and to encourage policies that provide all students with opportunities for physical activity outside of formal physical education classes;

((~~(17)~~)) (16) To perform such other duties as may be required by law.

Sec. 105 RCW 28A.305.011 and 2005 c 497 s 101 are each amended to read as follows:

(1) The membership of the state board of education shall be composed of sixteen members who are residents of the state of Washington:

(a) Seven shall be members representing the educational system, as follows:

(i) Five members elected by school district directors. Three of the members elected by school district directors shall be residents of western Washington and two members shall be residents of eastern Washington;

(ii) One member elected at-large by the members of the boards of directors of all private schools in the state meeting the requirements of RCW 28A.195.010; and

(iii) The superintendent of public instruction;

(b) Seven members appointed by the governor; and

(c) Two students selected in a manner determined by the state board of education.

(2) Initial appointments shall be for terms from one to four years in length, with the terms expiring on the second Monday of January of the applicable year. As the terms of the first appointees expire or vacancies on the board occur, the governor shall appoint or reappoint members of the board to complete the initial terms or to four-year terms, as appropriate.

(a) Appointees of the governor must be individuals who have demonstrated interest in public schools and are supportive of educational improvement, have a positive record of service, and who will devote sufficient time to the responsibilities of the board.

(b) In appointing board members, the governor shall consider the diversity of the population of the state.

(c) All appointments to the board made by the governor are subject to confirmation by the senate.

(d) No person may serve as a member of the board, except the superintendent of public instruction, for more than two consecutive full four-year terms.

(3) The governor may remove an appointed member of the board for neglect of duty, misconduct, malfeasance, or misfeasance in office, or for incompetent or unprofessional conduct as defined in chapter 18.130 RCW. In such a case, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary of state shall send a certified copy of the statement of causes and order of removal to the last known post office address of the member.

(4)(a) The chair of the board shall be elected by a majority vote of the members of the board. The chair of the board shall serve a term of two years, and may be reelected to an additional term. A member of the board may not serve as chair for more than two consecutive terms.

(b) Eight voting members of the board constitute a quorum for the transaction of business.

(c) All members except the student members are voting members.

(5) Members of the board appointed by the governor who are not public employees shall be compensated in accordance with RCW ((~~43.03.240~~)) 43.03.250 and shall be reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

PART 2
BASIC EDUCATION ACT RESPONSIBILITIES

Sec. 201 RCW 28A.150.230 and 1994 c 245 s 9 are each amended to read as follows:

(1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the proper operation of their district to the local community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that such program provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors to adopt policies to:

(a) Establish performance criteria and an evaluation process for its certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum;

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs;

(c) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules ((~~and regulations~~)) of the state board of education;

(d) Determine the allocation of staff time, whether

certificated or classified;

(e) Establish final curriculum standards consistent with law and rules ((~~and regulations of the state board of education~~)) of the superintendent of public instruction, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and

(f) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

Sec. 202 RCW 28A.505.140 and 1990 c 33 s 422 are each amended to read as follows:

(1) Notwithstanding any other provision of law, the superintendent of public instruction ((~~is hereby directed to promulgate~~)) shall adoptsuch rules ((~~and regulations~~)) as will ((~~insure~~)) ensure proper budgetary procedures and practices, including monthly financial statements consistent with the provisions of RCW 43.09.200, and this chapter.

(2) If the superintendent of public instruction determines upon a review of the budget of any district that said budget does not comply with the budget procedures established by this chapter or by rules ((~~and regulations promulgated~~)) adopted by the superintendent of public instruction, or the provisions of RCW 43.09.200, the superintendent shall give written notice of this determination to the board of directors of the local school district.

(3) The local school district, notwithstanding any other provision of law, shall, within thirty days from the date the superintendent of public instruction issues a notice pursuant to subsection (2) of this section, submit a revised budget which meets the requirements of RCW 43.09.200, this chapter, and the rules ((~~and regulations~~)) of the superintendent of public instruction((~~: PROVIDED, That if the district fails or refuses to submit a revised budget which in the determination of the superintendent of public instruction meets the requirements of RCW 43.09.200, this chapter, and the rules and regulations of the superintendent of public instruction, the matter shall be submitted to the state board of education, which board shall meet and adopt a financial plan which shall be in effect until a budget can be adopted and submitted by the district in compliance with this section~~)).

NEW SECTION. **Sec. 203** (1) As the governor's steering committee for the comprehensive education study created under chapter 496, Laws of 2005 continues the study of the state funding of public education in Washington and makes final recommendations, the legislature strongly encourages the steering committee to carefully examine whether the use of inputs, such as the number of instructional hours, the number of instructional days, and student/teacher ratios, is the most efficient and effective funding system that is oriented toward student achievement and whether any changes to the current method of allocating funds can be created to implement the intent of education reform that all children can learn.

(2) This section expires July 1, 2007.

PART 3
SCHOOL FACILITIES AND ORGANIZATION

Sec. 301 RCW 28A.525.020 and 1969 ex.s. c 223 s 28A.47.060 are each amended to read as follows:

The ((~~state board of education~~)) superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, shall have the power and ((~~it shall be its~~)) duty (1) to prescribe rules ((~~and regulations~~)) governing the administration, control, terms, conditions, and disbursements of allotments to school districts to assist them in providing school plant facilities; (2) to approve allotments to districts that apply for state assistance whenever ((~~the board deems~~)) such action is advisable ((~~and in so doing to give due consideration to the findings, reports, and recommendations of the superintendent of public instruction pertaining thereto~~)); (3) to authorize the payment of approved allotments by warrant of the state treasurer; and (4) in the event that the amount of state assistance applied for exceeds the funds available for such assistance during any biennium, to make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance and/or to prorate allotments among such districts in conformity with applicable procedures and ((~~regulations applicable thereto which shall be established by the state board~~)) rules.

Sec. 302 RCW 28A.525.030 and 1995 c 77 s 23 are each amended to read as follows:

Whenever funds are appropriated for modernization of existing school facilities, the ((~~state board of education~~)) superintendent of public instruction is authorized to approve the use of such funds for modernization of existing facilities, modernization being limited to major structural changes in such facilities and, as necessary to bring such facilities into compliance with the barrier free access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act, both major and minor structural changes, and may include as incidental thereto the replacement of fixtures, fittings, furnishings and service systems of a building in order to bring it up to a contemporary state consistent with the needs of changing educational programs. The allocation of such funds shall be made upon the same basis as funds used for the financing of a new school plant project utilized for a similar purpose.

Sec. 303 RCW 28A.525.050 and 1969 ex.s. c 223 s 28A.47.080 are each amended to read as follows:

All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction ((~~in conformity with rules and regulations which shall be prescribed by the state board of education~~)). Studies and surveys shall be conducted by the ((~~aforesaid officer~~)) superintendentfor the purpose of securing information relating to (1) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (2) the ability of such districts to provide capital outlay funds by local effort, (3) the need for improvement of school administrative units and school attendance areas among or within such districts, and (4) any other pertinent matters. Recommendations respecting action on the ((~~aforesaid~~)) applications shall be submitted to the ((~~state board of education by the~~)) superintendent of public instruction ((~~together with such reports of the findings, studies, and surveys made by said officer as may be required by the state board~~)).

Sec. 304 RCW 28A.525.055 and 1994 c 219 s 11 are each amended to read as follows:

The ((~~state board of education,~~)) rules adopted by the superintendent of public instruction for ((~~purposes of~~)) determining eligibility for state assistance for new construction((~~,~~)) shall ((~~adopt rules excluding~~)) exclude from the inventory of available educational space those spaces that have been constructed for educational and community activities from grants received from other public or private entities.

Sec. 305 RCW 28A.525.070 and 1985 c 136 s 1 are each amended to read as follows:

The superintendent of public instruction shall furnish ((~~(1)~~)) to school districts seeking state assistance consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities for such district((~~, and (2) to the state board of education such service as may be required by the board in the exercise of the powers and the performance of the duties vested in and required to be performed by the board~~)).

Sec. 306 RCW 28A.525.080 and 1969 ex.s. c 223 s 28A.47.120 are each amended to read as follows:

Insofar as is permissible under acts of congress, funds made available by the federal government for the purpose of assisting school districts in providing school plant facilities shall be made available to such districts in conformity with rules ((~~and regulations which~~))that the ((~~state board of education~~)) superintendent, considering policy recommendations from the school facilities citizen advisory panel, shall establish.

Sec. 307 RCW 28A.525.090 and 1999 c 313 s 2 are each amended to read as follows:

(1) The ((~~state board of education~~)) superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, shall adopt rules for appropriate use of the following construction management techniques: Value engineering, constructibility review, building commissioning, and construction management. Rules adopted under this section shall:

(a) Define each technique as it applies to school buildings;

(b) Describe the scope of work for each technique;

(c) Define the timing for implementing each technique in the construction process;

(d) Determine the appropriate size of projects for the use of each technique; and

(e) Determine standards for qualification and performance for each technique.

(2) Except as provided in rules adopted under subsection (1)(d) of this section, in allocating state moneys provided under this chapter, the ((~~state board of education~~)) superintendent of public instructionshall include in funding for each project, at the state matching percentage, the cost of each of the construction management techniques listed in subsection (1) of this section.

(3) When assigning priority and allocating state funds for construction of common school facilities, the ((~~state board of education~~)) superintendent shall consider the adequacy of the construction management techniques used by a district and the compliance with the rules adopted under subsection (1) of this section.

(4) Except as provided in rules adopted under subsection (1)(d) of this section, the construction management techniques in subsection (1) of this section shall be used on each project submitted for approval by the ((~~state board of education~~)) superintendent.

(5)(a) School districts applying for state assistance for school facilities shall:

(i) Cause value engineering, constructibility review, and building commissioning to be performed by contract with a professional firm specializing in those construction management techniques; and

(ii) Contract or employ personnel to perform professional construction management.

(b) All recommendations from the value engineering and constructibility review construction techniques for a school project shall be presented to the school district's board of directors for acceptance or rejection. If the board of directors rejects a recommendation it shall provide a statement explaining the reasons for rejecting the recommendation and include the statement in the application for state assistance to the ((~~state board of education~~))superintendent of public instruction.

(6) The office of the superintendent of public instruction shall provide:

(a) An information and training program for school districts on the use of the construction management techniques; and

(b) Consulting services to districts on the benefits and best uses of these construction management techniques.

NEW SECTION. **Sec. 308** A new section is added to chapter 28A.525 RCW to read as follows:

(1) To maintain citizen oversight on issues pertaining to school facilities and funding for school construction, a school facilities citizen advisory panel shall be created by the state board of education. The panel shall advise and make recommendations to the superintendent of public instruction regarding school facilities, funding for school construction, joint planning and financing of educational facilities, facility plans and programs for nonhigh school districts, and determinations of remote and necessary schools.

(2) The membership of the school facilities citizen advisory panel shall be as follows:

(a) One member of the state board of education;

(b) Two school district directors representing school districts of various sizes and geographic locations, who are appointed by the state board of education and selected from a list of five names submitted to the board by the Washington state school directors' association; and

(c) Four additional citizen members appointed by the state board of education.

(3) Members of the panel shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(4) In addition to the school facilities citizen advisory panel, the superintendent of public instruction may convene a technical advisory group including representatives from school business officers, building and construction contracting and trade organizations, architecture and engineering organizations, and other organizations with expertise in school facilities.

Sec. 309 RCW 28A.525.162 and 1995 c 77 s 24 are each amended to read as follows:

(1) Funds appropriated to the ((~~state board of education~~))superintendent of public instruction from the common school construction fund shall be allotted by the ((~~state board of education~~))superintendent of public instruction in accordance with student enrollment and the provisions of RCW 28A.525.200.

(2) No allotment shall be made to a school district until such district has provided matching funds equal to or greater than the difference between the total approved project cost and the amount of state assistance to the district for financing the project computed pursuant to RCW 28A.525.166, with the following exceptions:

(a) The ((~~state board~~)) superintendent of public instruction may waive the matching requirement for districts which have provided funds for school building construction purposes through the authorization of bonds or through the authorization of excess tax levies or both in an amount equivalent to two and one-half percent of the value of its taxable property, as defined in RCW 39.36.015.

(b) No such matching funds shall be required as a condition to the allotment of funds for the purpose of making major or minor structural changes to existing school facilities in order to bring such facilities into compliance with the barrier free access requirements of section 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act.

(3) For the purpose of computing the state matching

percentage under RCW 28A.525.166 when a school district is granted authority to enter into contracts, adjusted valuation per pupil shall be calculated using headcount student enrollments from the most recent October enrollment reports submitted by districts to the superintendent of public instruction, adjusted as follows:

(a) In the case of projects for which local bonds were approved after May 11, 1989:

(i) For districts which have been designated as serving high school districts under RCW 28A.540.110, students residing in the nonhigh district so designating shall be excluded from the enrollment count if the student is enrolled in any grade level not offered by the nonhigh district;

(ii) The enrollment of nonhigh school districts shall be increased by the number of students residing within the district who are enrolled in a serving high school district so designated by the nonhigh school district under RCW 28A.540.110, including only students who are enrolled in grade levels not offered by the nonhigh school district; and

(iii) The number of preschool students with disabilities included in the enrollment count shall be multiplied by one-half;

(b) In the case of construction or modernization of high school facilities in districts serving students from nonhigh school districts, the adjusted valuation per pupil shall be computed using the combined adjusted valuations and enrollments of each district, each weighted by the percentage of the district's resident high school students served by the high school district; and

(c) The number of kindergarten students included in the enrollment count shall be multiplied by one-half.

(4) The ((~~state board of education~~)) superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, shall prescribe ((~~and make effective~~)) such rules as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

(5) For the purposes of this section, "preschool students with disabilities" means developmentally disabled children of preschool age who are entitled to services under RCW 28A.155.010 through 28A.155.100 and are not included in the kindergarten enrollment count of the district.

Sec. 310 RCW 28A.525.164 and 1990 c 33 s 456 are each amended to read as follows:

In allotting the state funds provided by RCW ((~~28A.525.160 through 28A.525.182~~)) 28A.525.162 through 28A.525.180, the ((~~state board of education~~)) superintendent of public instruction shall:

(1) Prescribe rules ((~~and regulations~~)) not inconsistent with RCW ((~~28A.525.160 through 28A.525.182~~)) 28A.525.162 through 28A.525.180governing the administration, control, terms, conditions, and disbursement of allotments to school districts to assist them in providing school plant facilities;

(2) Approve((~~, whenever the board deems such action advisable,~~)) allotments to districts that apply for state assistance;

(3) Authorize the payment of approved allotments by warrant of the state treasurer; and

(4) In the event that the amount of state assistance applied for pursuant to the provisions hereof exceeds the funds available for such assistance during any biennium, make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance or prorate allotments among such districts in conformity with ((~~procedures and regulations~~)) applicable ((~~thereto which shall be established by the board~~)) rules.

Sec. 311 RCW 28A.525.166 and 1997 c 369 s 9 are each amended to read as follows:

Allocations to school districts of state funds provided by RCW ((~~28A.525.160 through 28A.525.182~~)) 28A.525.162 through 28A.525.180shall be made by the ((~~state board of education~~)) superintendent of public instruction and the amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the ((~~state board of education~~)) superintendent.

(2) The state matching percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil shall be subtracted from three, and then the result of the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil).

$$\text{Computed State Assistance} = \left(\frac{3 - \frac{\text{District adjusted valuation per pupil}}{\text{Total state adjusted valuation per pupil}}}{3 + \frac{\text{District adjusted valuation per pupil}}{\text{Total state adjusted valuation per pupil}}}\right) - \%$$

PROVIDED, That in the event the percentage of state assistance to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state assistance under RCW ((~~28A.525.160 through 28A.525.182~~)) 28A.525.162 through 28A.525.180, the ((~~state board of education~~)) superintendent may establish for such district a percentage of state assistance not in excess of twenty percent of the approved cost of the project, if the ((~~state board~~)) superintendent finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed percent of state assistance developed in subsection (2) ((~~above~~)) of this section, a school district shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed percent of state assistance for each percent of growth, with a maximum of twenty percent.

(4) The approved cost of the project determined in the

manner ((~~herein~~)) prescribed ((~~times~~)) in this section multiplied by the percentage of state assistance derived as provided for ((~~herein~~)) in this section shall be the amount of state assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the ((~~state board of education~~)) superintendent: PROVIDED, FURTHER, That additional state assistance may be allowed if it is found by the ((~~state board of education~~)) superintendent, considering policy recommendations from the school facilities citizen advisory panel that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden resulting from industrial projects of statewide significance or imposed by virtue of the admission of nonresident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d), and (e) ((~~hereinabove~~)) of this subsection, creating a like emergency.

Sec. 312 RCW 28A.525.168 and 1990 c 33 s 458 are each amended to read as follows:

Whenever the voters of a school district authorize the issuance of bonds and/or the levying of excess taxes in an amount sufficient to meet the requirements of RCW 28A.525.162 respecting eligibility for state assistance in providing school facilities, the taxable valuation of the district and the percentage of state assistance in providing school facilities prevailing at the time of such authorization shall be the valuation and the percentage used for the purpose of determining the eligibility of the district for an allotment of state funds and the amount or amounts of such allotments, respectively, for all projects for which the voters authorize capital funds as aforesaid, unless a higher percentage of state assistance prevails on the date that state funds for assistance in financing a project are allotted by the ((~~state board of education~~)) superintendent of public instruction in which case the percentage prevailing on the date of allotment by the ((~~state board~~)) superintendent of funds for each project shall govern: PROVIDED, That if the ((~~state board of education~~)) superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, determines at any time that there has been undue or unwarranted delay on the part of school district authorities in advancing a project to the point of readiness for an allotment of state funds, the taxable valuation of the school district and the percentage of state assistance prevailing on the date that the allotment is made shall be used for the purposes aforesaid: PROVIDED, FURTHER, That the date ((~~herein~~)) specified in this section as applicable in determining the eligibility of an individual school district for state assistance and in determining the amount of such assistance shall be applicable also to cases where it is necessary in administering chapter 28A.540 RCW to determine eligibility for and the amount of state assistance for a group of school districts considered as a single school administrative unit.

Sec. 313 RCW 28A.525.170 and 1990 c 33 s 459 are each amended to read as follows:

If a school district which has qualified for an allotment of state funds under the provisions of RCW ((~~28A.525.160 through 28A.525.182~~))28A.525.162 through 28A.525.180 for school building construction is found by the ((~~state board of education~~)) superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, to have a school housing emergency requiring an allotment of state funds in excess of the amount allocable under RCW 28A.525.166, an additional allotment may be made to such district: PROVIDED, That the total amount allotted shall not exceed ninety percent of the total cost of the approved project which may include the cost of the site and equipment. At any time thereafter when the ((~~state board of education~~)) superintendent finds that the financial position of such school district has improved through an increase in its taxable valuation or through retirement of bonded indebtedness or through a reduction in school housing requirements, or for any combination of these reasons, the amount of such additional allotment, or any part of such amount as the ((~~state board of education~~)) superintendent determines, shall be deducted, under terms and conditions prescribed by the ((~~board~~)) superintendent, from any state school building construction funds which might otherwise be provided to such district.

Sec. 314 RCW 28A.525.172 and 1969 ex.s. c 244 s 7 are each amended to read as follows:

All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules ((~~and regulations which shall be prescribed~~)) adopted by the ((~~state board of education~~))superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel. Studies and surveys shall be conducted by the ((~~state board~~))superintendent for the purpose of securing information relating to (a) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (b) the ability of such districts to provide capital funds by local effort, (c) the need for improvement of school administrative units and school attendance areas among or within such districts, and (d) any other pertinent matters.

Sec. 315 RCW 28A.525.174 and 1990 c 33 s 460 are each amended to read as follows:

It shall be the duty of the ((~~state board of education~~))superintendent of public instruction, in consultation with the Washington state department of ((~~social and~~)) health ((~~services~~)), to prepare a manual and/or to specify other materials for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance and operation of school plant facilities for the public schools. In so doing due consideration shall be given to the presentation of information regarding ((~~(a)~~)) (1) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW ((~~28A.525.160 through 28A.525.182; (b)~~)) 28A.525.162 through 28A.525.180; (2) procedures in inaugurating and conducting a school plant planning program for a school district; ((~~(c)~~)) (3) standards for use in determining the selection and development of school sites and in designing, planning, and

constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (((~~(d)~~))) (4) the planning of readily expansible and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (((~~(e)~~))) (5) an acceptable school building maintenance program and the necessity therefor; (((~~(f)~~))) (6) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (((~~(g)~~))) (7) any other matters regarded by the ((~~state board~~)) superintendent as pertinent or related to the purposes and requirements of RCW ((~~28A.525.160 through 28A.525.182~~)) 28A.525.162 through 28A.525.180.

Sec. 316 RCW 28A.525.176 and 1990 c 33 s 461 are each amended to read as follows:

The ((~~state board of education~~)) superintendent of public instruction shall furnish to school districts seeking state assistance under the provisions of RCW ((~~28A.525.160 through 28A.525.182~~))28A.525.162 through 28A.525.180 consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities.

Sec. 317 RCW 28A.525.178 and 1990 c 33 s 462 are each amended to read as follows:

((~~Whenever in the judgment of the state board of education~~)) Wheneconomies may be ((~~effected~~)) affected without impairing the usefulness and adequacy of school buildings, ((~~said board~~)) the superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, may prescribe rules ((~~and regulations~~)) and establish procedures governing the preparation and use of modifiable basic or standard plans for school building construction projects for which state assistance funds provided by RCW ((~~28A.525.160 through 28A.525.182~~)) 28A.525.162 through 28A.525.180 are allotted.

Sec. 318 RCW 28A.525.180 and 1990 c 33 s 463 are each amended to read as follows:

The total amount of funds appropriated under the provisions of RCW ((~~28A.525.160 through 28A.525.182~~)) 28A.525.162 through 28A.525.180shall be reduced by the amount of federal funds made available during each biennium for school construction purposes under any applicable federal law. The funds appropriated by RCW ((~~28A.525.160 through 28A.525.182~~)) 28A.525.162 through 28A.525.180 and available for allotment by the ((~~state board of education~~)) superintendent of public instruction shall be reduced by the amount of such federal funds made available. Notwithstanding the foregoing provisions of this section, the total amount of funds appropriated by RCW ((~~28A.525.160 through 28A.525.182~~)) 28A.525.162 through 28A.525.180 shall not be reduced by reason of any grants to any school district of federal moneys paid under Public Law No. 815 or any other federal act authorizing school building construction assistance to federally affected areas.

Sec. 319 RCW 28A.525.190 and 1975 1st ex.s. c 98 s 2 are each amended to read as follows:

The ((~~state board of education~~)) superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel shall prioritize the construction of common school facilities only from funds appropriated and available in the common school construction fund.

Sec. 320 RCW 28A.525.200 and 1990 c 33 s 465 are each amended to read as follows:

Notwithstanding any other provision of RCW 28A.525.010 through 28A.525.222, the allocation and distribution of funds by the ((~~state board of education which are now or may hereafter be appropriated~~))superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel, for the purposes of providing assistance in the construction of school plant facilities shall be governed by ((~~RCW 28A.525.010 through 28A.525.080 and 28A.525.162 through 28A.525.178~~)) this chapter.

Sec. 321 RCW 28A.525.216 and 1990 c 33 s 467 are each amended to read as follows:

The proceeds from the sale of the bonds deposited under RCW 28A.525.214 in the common school construction fund shall be administered by the ((~~state board of education~~)) superintendent of public instruction.

Sec. 322 RCW 28A.150.260 and 1997 c 13 s 2 are each amended to read as follows:

The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

(a) Certificated instructional staff and their related costs;

(b) Certificated administrative staff and their related costs;

(c) Classified staff and their related costs;

(d) Nonsalary costs;

(e) Extraordinary costs, including school facilities, of remote and necessary schools as judged by the superintendent of public instruction, with recommendations from the school facilities citizen advisory panel under section 308 of this act, and small high schools, including costs of additional certificated and classified staff; and

(f) The attendance of students pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) The formula adopted by the legislature shall reflect the following ratios at a minimum: (i) Forty-nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That the distribution formula developed pursuant to this section shall be

for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW 28A.150.220 and 28A.150.100. The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW 28A.150.350, enrolled on the first school day of each month and shall exclude full time equivalent students with disabilities recognized for the purposes of allocation of state funds for programs under RCW 28A.155.010 through 28A.155.100. The definition of full time equivalent student shall be determined by rules of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

(3)(a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such classified people shall not occur during a labor dispute and such classified people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief administrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4).

Sec. 323 RCW 28A.335.160 and 1995 c 335 s 604 are each amended to read as follows:

Any school district may cooperate with one or more school districts in the joint financing, planning, construction, equipping and operating of any educational facility otherwise authorized by law: PROVIDED, That any cooperative financing plan involving the construction of school plant facilities must be approved by the ((~~state board of education~~)) superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel under section 308 of this act, pursuant to such rules ((~~as may now or hereafter be promulgated~~)) adopted relating to state approval of school construction.

Sec. 324 RCW 28A.540.050 and 1990 c 33 s 485 are each amended to read as follows:

Subsequent to the holding of a hearing or hearings as provided in RCW 28A.540.040, the regional committee on school district organization shall determine the nonhigh school districts to be included in the plan and the amount of capital funds to be provided by every school district included therein, and shall submit the proposed plan to the ((~~state board of education~~)) superintendent of public instruction together with such maps and other materials pertaining thereto as the ((~~state board~~))superintendent may require. The ((~~state board~~)) superintendent, considering policy recommendations from the school facilities citizen advisory panel under section 308 of this act, shall review such plan, shall approve any plan which in ((~~its~~)) his or her judgment makes adequate and satisfactory provision for participation by the nonhigh school districts in providing capital funds to be used for the purpose above stated, and shall notify the regional committee of such action. Upon receipt by the regional committee of such notification, the educational service district superintendent, or his or her designee, shall notify the board of directors of each school district included in the plan, supplying each board with complete details of the plan and shall state the total amount of funds to be provided and the amount to be provided by each district.

If any such plan submitted by a regional committee is not approved by the ((~~state board~~)) superintendent of public instruction, the regional committee shall be so notified, which notification shall contain a statement of reasons therefor and suggestions for revision. Within sixty days thereafter the regional committee shall submit to the ((~~state board~~)) superintendent a revised plan which revision shall be subject to approval or disapproval by the ((~~state board~~))superintendent, considering policy recommendations from the school facilities citizen advisory panel, and the procedural requirements and provisions of law applicable to an original plan submitted to ((~~said board~~)) the superintendent.

NEW SECTION. **Sec. 325** A new section is added to chapter 28A.545 RCW to read as follows:

The superintendent of public instruction, with recommendations from the school facilities citizen advisory panel under section 308 of this act, shall adopt rules governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established, the district must obtain prior approval of the superintendent of public instruction.

Sec. 326 RCW 28A.150.530 and 2005 c 12 s 7 are each amended to read as follows:

(1) In adopting implementation rules, ((~~the state board of education, in consultation with~~)) the superintendent of public instruction ((~~and~~)), in consultation with the department of general administration, shall review and modify the current requirement for an energy conservation report review by the department of general administration as provided in WAC 180-27-075.

(2) In adopting implementation rules, ((~~the state board of education, in consultation with~~)) the superintendent of public instruction shall:

(a) Review and modify the current requirements for value engineering, ((~~constructability~~)) constructibility review, and building commissioning as provided in WAC 180-27-080;

(b) Review private and public utility providers' capacity and financial/technical assistance programs for affected public school districts to monitor and report utility consumption for purposes of reporting to the superintendent of public instruction as provided in RCW 39.35D.040;

(c) Coordinate with the department of general administration, the state board of health, the department of ecology, federal agencies, and other affected agencies as appropriate in their consideration of rules to implement this section.

Sec. 327 RCW 28A.335.210 and 2005 c 36 s 1 are each amended to read as follows:

The ((~~state board of education and~~)) superintendent of public instruction shall allocate, as a nondeductible item, out of any moneys appropriated for state assistance to school districts for the original construction of any school plant facility the amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission for the acquisition of works of art. The works of art may be placed in accordance with Article IX, sections 2 and 3 of the state

Constitution on public lands, integral to or attached to a public building or structure, detached within or outside a public building or structure, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities. The Washington state arts commission shall, in consultation with the superintendent of public instruction, determine the amount to be made available for the purchase of works of art under this section, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the superintendent of public instruction and representatives of school district boards of directors. The superintendent of public instruction and the school district board of directors of the districts where the sites are selected shall have the right to:

(1) Waive its use of the one-half of one percent of the appropriation for the acquisition of works of art before the selection process by the Washington state arts commission;

(2) Appoint a representative to the body established by the Washington state arts commission to be part of the selection process with full voting rights;

(3) Reject the results of the selection process;

(4) Reject the placement of a completed work or works of art on school district premises if such works are portable.

Rejection at any point before or after the selection process shall not cause the loss of or otherwise endanger state construction funds available to the local school district. Any works of art rejected under this section shall be applied to the provision of works of art under this chapter, at the discretion of the Washington state arts commission, notwithstanding any contract or agreement between the affected school district and the artist involved. In addition to the cost of the works of art the one-half of one percent of the appropriation as provided ((~~herein~~)) in this section shall be used to provide for the administration, including conservation of the state art collection, by the Washington state arts commission and all costs for installation of the work of art. For the purpose of this section building shall not include sheds, warehouses, or other buildings of a temporary nature.

The executive director of the arts commission, the superintendent of public instruction, and the Washington state school directors association shall appoint a study group to review the operations of the one-half of one percent for works of art under this section.

Sec. 328 RCW 28A.335.230 and 1987 c 112 s 1 are each amended to read as follows:

School districts shall be required to lease for a reasonable fee vacant school plant facilities from a contiguous school district wherever possible.

No school district with unhoused students may be eligible for the state matching funds for the construction of school plant facilities if:

(1) The school district contiguous to the school district applying for the state matching percentage has vacant school plant facilities;

(2) The superintendent of public instruction ((~~and the state board of education have~~)) has determined the vacant school plant facilities available in the contiguous district will fulfill the needs of the applicant district in housing unhoused students. In determining whether the contiguous district school plant facilities meet the needs of the applicant district, consideration shall be given, but not limited to the geographic location of the vacant facilities as they relate to the applicant district; and

(3) A lease of the vacant school plant facilities can be negotiated.

Sec. 329 RCW 28A.540.070 and 1990 c 33 s 486 are each amended to read as follows:

In the event that a proposal or proposals for providing capital funds as provided in RCW 28A.540.060 is not approved by the voters of a nonhigh school district a second election thereon shall be held within sixty days thereafter. If the vote of the electors of the nonhigh school district is again in the negative, the high school students residing therein shall not be entitled to admission to the high school under the provisions of RCW 28A.225.210, following the close of the school year during which the second election is held: PROVIDED, That in any such case the regional committee on school district organization shall determine within thirty days after the date of the aforesaid election the advisability of initiating a proposal for annexation of such nonhigh school district to the school district in which the proposed facilities are to be located or to some other district where its students can attend high school without undue inconvenience: PROVIDED FURTHER, That pending such determination by the regional committee and action thereon as required by law the board of directors of the high school district shall continue to admit high school students residing in the nonhigh school district. Any proposal for annexation of a nonhigh school district initiated by a regional committee shall be subject to the procedural requirements of this chapter respecting a public hearing and submission to and approval by the ((~~state board of education~~)) superintendent of public instruction, considering policy recommendations from the school facilities citizen advisory panel under section 308 of this act. Upon approval by the ((~~state board~~)) superintendent of public instruction of any such proposal, the educational service district superintendent shall make an order, establishing the annexation.

Sec. 330 RCW 39.35D.020 and 2005 c 12 s 2 are each amended to read as follows:

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

(1) "Department" means the department of general administration.

(2) "High-performance public buildings" means high-performance public buildings designed, constructed, and certified to a standard as identified in this chapter.

(3) "Institutions of higher education" means the state universities, the regional universities, The Evergreen State College, the community colleges, and the technical colleges.

(4) "LEED silver standard" means the United States green building council leadership in energy and environmental design green building rating standard, referred to as silver standard.

(5)(a) "Major facility project" means: (i) A construction project larger than five thousand gross square feet of occupied or conditioned space as defined in the Washington state energy code; or (ii) a building renovation project when the cost is greater than fifty percent of the assessed value and the project is larger than five thousand gross square feet of occupied or conditioned space as defined in the Washington state energy code.

(b) "Major facility project" does not include: (i) Projects for which the department, public school district, or other applicable agency and the design team determine the LEED silver standard or the Washington sustainable school design protocol to be not practicable; or (ii) transmitter buildings, pumping stations, hospitals, research facilities primarily used for sponsored laboratory experimentation, laboratory research, or laboratory

training in research methods, or other similar building types as determined by the department. When the LEED silver standard is determined to be not practicable for a project, then it must be determined if any LEED standard is practicable for the project. If LEED standards or the Washington sustainable school design protocol are not followed for the project, the public school district or public agency shall report these reasons to the department.

(6) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and public higher education institution.

(7) "Public school district" means a school district eligible to receive state basic education moneys pursuant to RCW 28A.150.250 and 28A.150.260.

(8) "Washington sustainable school design protocol" means the school design protocol and related information developed by the ((~~state board of education and the~~)) office of the superintendent of public instruction, in conjunction with school districts and the school facilities advisory board.

Sec. 331 RCW 39.35D.040 and 2005 c 12 s 4 are each amended to read as follows:

(1) All major facility projects of public school districts receiving any funding in a state capital budget must be designed and constructed to at least the LEED silver standard or the Washington sustainable school design protocol. To the extent appropriate LEED silver or Washington sustainable school design protocol standards exist for the type of building or facility, this subsection applies to major facility projects that have not received project approval from the superintendent of public instruction prior to: (a) July 1, 2006, for volunteering school districts; (b) July 1, 2007, for class one school districts; and (c) July 1, 2008, for class two school districts.

(2) Public school districts under this section shall: (a) Monitor and document appropriate operating benefits and savings resulting from major facility projects designed and constructed as required under this section for a minimum of five years following local board acceptance of a project receiving state funding; and (b) report annually to the superintendent of public instruction. The form and content of each report must be mutually developed by the office of the superintendent of public instruction in consultation with school districts.

(3) The superintendent of public instruction shall consolidate the reports required in subsection (2) of this section into one report and report to the governor and legislature by September 1st of each even-numbered year beginning in 2006 and ending in 2016. In its report, the superintendent of public instruction shall also report on the implementation of this chapter, including reasons why the LEED standard or Washington sustainable school design protocol was not used as required by RCW 39.35D.020(5)(b). The superintendent of public instruction shall make recommendations regarding the ongoing implementation of this chapter, including a discussion of incentives and disincentives related to implementing this chapter.

(4) The ((~~state board of education, in consultation with the~~)) superintendent of public instruction((~~,~~)) shall develop and issue guidelines for administering this chapter for public school districts. The purpose of the guidelines is to define a procedure and method for employing and verifying compliance with the LEED silver standard or the Washington sustainable school design protocol.

(5) The superintendent of public instruction shall utilize the school facilities advisory board as a high-performance buildings advisory committee comprised of affected public schools, ((~~the state board of education,~~)) the superintendent of public instruction, the department, and others at the superintendent of public instruction's discretion to provide advice on implementing this chapter. Among other duties, the advisory committee shall make recommendations regarding an education and training process and an ongoing evaluation or feedback process to help the superintendent of public instruction ((~~and the state board of education~~)) implement this chapter.

Sec. 332 RCW 39.35D.060 and 2005 c 12 s 6 are each amended to read as follows:

(1)(a) The department, in consultation with affected public agencies, shall develop and issue guidelines for administering this chapter for public agencies. The purpose of the guidelines is to define a procedure and method for employing and verifying activities necessary for certification to at least the LEED silver standard for major facility projects.

(b) The department and the office of the superintendent of public instruction shall amend their fee schedules for architectural and engineering services to accommodate the requirements in the design of major facility projects under this chapter.

(c) The department and the office of the superintendent of public instruction shall procure architecture and engineering services consistent with chapter 39.80 RCW.

(d) Major facility projects designed to meet standards identified in this chapter must include building commissioning as a critical cost-saving part of the construction process. This process includes input from the project design and construction teams and the project ownership representatives.

(e) As provided in the request for proposals for construction services, the operating agency shall hold a preproposal conference for prospective bidders to discuss compliance with and achievement of standards identified in this chapter for prospective respondents.

(2) The department shall create a high-performance buildings advisory committee comprised of representatives from the design and construction industry involved in public works contracting, personnel from the affected public agencies responsible for overseeing public works projects, ((~~the state board of education,~~)) the office of the superintendent of public instruction, and others at the department's discretion to provide advice on implementing this chapter. Among other duties, the advisory committee shall make recommendations regarding an education and training process and an ongoing evaluation or feedback process to help the department implement this chapter.

(3) The department and the ((~~state board of education~~)) office of the superintendent of public instruction shall adopt rules to implement this section.

Sec. 333 RCW 79.17.100 and 2003 c 334 s 322 are each amended to read as follows:

Except as otherwise provided in RCW 79.17.110, upon the application of a school district or any institution of higher education for the purchase or lease of lands granted to the state by the United States, the department may offer such land for sale or lease to such school district or institution of higher education in such acreage as it may determine, consideration being given upon application of a school district to school site criteria established by the ((~~state board of education~~)) superintendent of public instruction. However, in the event the department thereafter proposes to offer such land for sale or lease at public auction, such school district or institution of higher education shall have a preference right for six months from notice of such proposal to purchase or lease such land at the appraised value determined by the board.

Sec. 334 RCW 79.17.120 and 2003 c 334 s 438 are each amended to read as follows:

The purchases authorized under RCW 79.17.110 shall be classified as for the construction of common school plant facilities under RCW 28A.525.010 through 28A.525.222 and shall be payable out of the common school construction fund as otherwise provided for in RCW 28A.515.320 if the school district involved was under emergency school construction classification as established by the ((~~state board of education~~))superintendent of public instruction at any time during the period of its lease of state lands.

NEW SECTION. **Sec. 335** The following sections are each decodified:

RCW 28A.525.120
RCW 28A.525.122
RCW 28A.525.124
RCW 28A.525.126
RCW 28A.525.128
RCW 28A.525.130
RCW 28A.525.132
RCW 28A.525.134
RCW 28A.525.140
RCW 28A.525.142
RCW 28A.525.144
RCW 28A.525.146
RCW 28A.525.148
RCW 28A.525.150
RCW 28A.525.152
RCW 28A.525.154
RCW 28A.525.156
RCW 28A.525.158
RCW 28A.525.160
RCW 28A.525.182

PART 4
COURSES OF STUDY AND EDUCATIONAL PROGRAMS

Sec. 401 RCW 28A.305.220 and 2004 c 19 s 108 are each amended to read as follows:

(1) The ((~~state board of education~~)) superintendent of public instruction, in consultation with the higher education coordinating board, the state board for community and technical colleges, and the work force training and education coordinating board, shall develop for use by all public school districts a standardized high school transcript. The ((~~state board of education~~)) superintendent shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) The standardized high school transcript shall include the following information:

(a) The highest scale score and level achieved in each content area on the high school Washington assessment of student learning or other high school measures successfully completed by the student as provided by RCW 28A.655.061 and 28A.155.045;

(b) All scholar designations as provided by RCW 28A.655.061;

(c) A notation of whether the student has earned a certificate of individual achievement or a certificate of academic achievement by means of the Washington assessment of student learning or by an alternative assessment.

(3) Transcripts are important documents to students who will apply for admission to postsecondary institutions of higher education. Transcripts are also important to students who will seek employment upon or prior to graduation from high school. It is recognized that student transcripts may be the only record available to employers in their decision-making processes regarding prospective employees. The superintendent of public instruction shall require school districts to inform annually all high school students that prospective employers may request to see transcripts and that the prospective employee's decision to release transcripts can be an important part of the process of applying for employment.

Sec. 402 RCW 28A.230.100 and 1991 c 116 s 8 are each amended to read as follows:

The ((~~state board of education~~)) superintendent of public instruction, in consultation with the higher education coordinating board, the state board for community and technical colleges, and the work force training and education coordinating board, shall adopt rules pursuant to chapter 34.05 RCW, to implement the course requirements set forth in RCW 28A.230.090. The rules shall include, as the ((~~state board~~)) superintendent deems necessary, granting equivalencies for and temporary exemptions from the course requirements in RCW 28A.230.090 and special alterations of the course requirements in RCW 28A.230.090. In developing such rules the ((~~state board~~)) superintendent shall recognize the relevance of vocational and applied courses and allow such courses to fulfill in whole or in part the courses required for graduation in RCW 28A.230.090. The rules may include provisions for competency testing in lieu of such courses required for graduation in RCW 28A.230.090 or demonstration of specific skill proficiency or understanding of concepts through work or experience.

Sec. 403 RCW 28A.230.170 and 1985 c 341 s 1 are each amended to read as follows:

The study of the Constitution of the United States and the Constitution of the state of Washington shall be a condition prerequisite to graduation from the public and private high schools of this state. The ((~~state board of education acting upon the advice of the~~)) superintendent of public instruction shall provide by rule ((~~or regulation~~)) for the implementation of this section.

NEW SECTION. **Sec. 404** The state board of education, in consultation with the state board for community and technical colleges, shall examine the statutory authority, rules, and jurisdiction between the K-12 and postsecondary education systems regarding the general educational development test and adult education. The board shall make recommendations for change or clarification to the education committees of the legislature by January 15, 2007.

NEW SECTION. **Sec. 405** (1) The state board of education shall develop and propose a revised definition of the purpose and expectations for high school diplomas issued by public schools in Washington state. The revised definition shall address whether attainment of a high school diploma is intended to signify that a student is ready for success in college, ready for successful and gainful employment in the workplace, or some combination of these and other objectives. The revised definition shall focus on the knowledge, skills, and abilities that students are expected to demonstrate to receive a high school diploma, as well as the various methods to be used to measure student performance, rather than focusing on courses, credits, seat time, and test scores.

(2) In developing the revised definition of the high school diploma, the state board of education shall consult with educators, parents, institutions of higher education, employers, and community leaders. The board shall also work with the state board for community and technical colleges, the higher education coordinating board, and the work force training and education coordinating board.

(3) The state board of education shall submit the proposed revised definition of the high school diploma, along with any necessary revisions to state statutes and rules, to the education committees of the legislature by December 1, 2007.

Sec. 406 RCW 28A.305.170 and 2002 c 291 s 3 are each amended to read as follows:

(1) In addition to any other powers and duties as provided by law, the ((~~state board of education~~)) superintendent of public instruction, in consultation with the military department, shall adopt rules governing and authorizing the acceptance of national guard high school career training and the national guard youth challenge program in lieu of either required high school credits or elective high school credits.

(2) With the exception of students enrolled in the national guard youth challenge program, students enrolled in such national guard programs shall be considered enrolled in the common school last attended preceding enrollment in such national guard program.

(3) The ((~~board~~)) superintendent shall adopt rules to ensure that students who successfully complete the national guard youth challenge program are granted an appropriate number of high school credits, based on the students' levels of academic proficiency as measured by the program.

Sec. 407 RCW 28A.230.130 and 2003 c 49 s 2 are each amended to read as follows:

(1) All public high schools of the state shall provide a program, directly or in cooperation with a community college or another school district, for students whose educational plans include application for entrance to a baccalaureate-granting institution after being granted a high school diploma. The program shall help these students to meet at least the minimum entrance requirements under RCW 28B.10.050.

(2) All public high schools of the state shall provide a program, directly or in cooperation with a community or technical college, a skills center, an apprenticeship committee, or another school district, for students who plan to pursue career or work opportunities other than entrance to a baccalaureate-granting institution after being granted a high school diploma. These programs may:

(a) Help students demonstrate the application of essential academic learning requirements to the world of work, occupation-specific skills, knowledge of more than one career in a chosen pathway, and employability and leadership skills; and

(b) Help students demonstrate the knowledge and skill needed to prepare for industry certification, and/or have the opportunity to articulate to postsecondary education and training programs.

((~~(3) The state board of education, upon request from local school districts, may grant waivers from the requirements to provide the program described in subsections (1) and (2) of this section for reasons relating to school district size and the availability of staff authorized to teach subjects which must be provided. In considering waiver requests related to programs in subsection (2) of this section, the state board of education shall consider the extent to which the school district has offered such programs before the 2003-04 school year.~~))

Sec. 408 RCW 28A.205.010 and 2005 c 497 s 214 are each amended to read as follows:

(1) As used in this chapter, unless the context thereof shall clearly indicate to the contrary:

"Education center" means any private school operated on a profit or nonprofit basis which does the following:

(a) Is devoted to the teaching of basic academic skills, including specific attention to improvement of student motivation for achieving, and employment orientation.

(b) Operates on a clinical, client centered basis. This shall include, but not be limited to, performing diagnosis of individual educational abilities, determination and setting of individual goals, prescribing and providing individual courses of instruction therefor, and evaluation of each individual client's progress in his or her educational program.

(c) Conducts courses of instruction by professionally trained personnel certificated by the Washington professional educator standards board according to rules adopted for the purposes of this chapter and providing, for certification purposes, that a year's teaching experience in an education center shall be deemed equal to a year's teaching experience in a common or private school.

(2) For purposes of this chapter, basic academic skills shall include the study of mathematics, speech, language, reading and composition, science, history, literature and political science or civics; it shall not include courses of a vocational training nature and shall not include courses deemed nonessential to the accrediting ((~~of the common schools~~)) or the approval of private schools under RCW 28A.305.130.

(3) The ((~~state board of education~~)) superintendent of public instruction shall certify an education center only upon application and (a) determination that such school comes within the definition thereof as set forth in subsection (1) of this section and (b) demonstration on the basis of actual educational performance of such applicants' students which shows after consideration of their students' backgrounds, educational gains that are a direct result of the applicants' educational program. Such certification may be withdrawn if the ((~~board~~)) superintendent finds that a center fails to provide adequate instruction in basic academic skills. No education center certified by the ((~~state board of education~~)) superintendent of public instruction pursuant to this section shall be deemed a common school under RCW 28A.150.020 or a private school for the purposes of RCW 28A.195.010 through 28A.195.050.

Sec. 409 RCW 28A.205.070 and 1993 c 211 s 6 are each amended to read as follows:

In allocating funds appropriated for education centers, the superintendent of public instruction shall:

(1) Place priority upon stability and adequacy of funding for education centers that have demonstrated superior performance as defined in RCW 28A.205.040(2).

(2) Initiate and maintain a competitive review process to select new or expanded center programs in unserved or underserved areas. The criteria for review of competitive proposals for new or expanded education center services shall include but not be limited to:

(a) The proposing organization shall have obtained certification from the ((~~state board of education~~)) superintendent of public instruction as provided in RCW 28A.205.010;

(b) The cost-effectiveness of the proposal; and

(c) The availability of committed nonstate funds to support, enrich, or otherwise enhance the basic program.

(3) In selecting areas for new or expanded education center programs, the superintendent of public instruction shall consider factors including but not limited to:

(a) The proportion and total number of dropouts unserved by existing center programs, if any;

(b) The availability within the geographic area of programs other than education centers which address the basic educational needs of dropouts; and

(c) Waiting lists or other evidence of demand for expanded education center programs.

(4) In the event of any curtailment of services resulting from lowered legislative appropriations, the superintendent of public

instruction shall issue pro rata reductions to all centers funded at the time of the lowered appropriation. Individual centers may be exempted from such pro rata reductions if the superintendent finds that such reductions would impair the center's ability to operate at minimally acceptable levels of service. In the event of such exceptions, the superintendent shall determine an appropriate rate for reduction to permit the center to continue operation.

(5) In the event that an additional center or centers become certified and apply to the superintendent for funds to be allocated from a legislative appropriation which does not increase from the immediately preceding biennium, or does not increase sufficiently to allow such additional center or centers to operate at minimally acceptable levels of service without reducing the funds available to previously funded centers, the superintendent shall not provide funding for such additional center or centers from such appropriation.

Sec. 410 RCW 28A.215.010 and 1995 c 335 s 104 are each amended to read as follows:

The board of directors of any school district shall have the power to establish and maintain preschools and to provide before-and-after-school and vacation care in connection with the common schools of said district located at such points as the board shall deem most suitable for the convenience of the public, for the care and instruction of infants and children residing in said district. The board shall establish such courses, activities, rules, and regulations governing preschools and before-and-after-school care as it may deem best: PROVIDED, That these courses and activities shall meet the minimum standard for such preschools as established by the United Statesdepartment of health, education and welfare, or its successor agency, and the ((~~state board of education~~)) superintendent of public instruction. Except as otherwise provided by state or federal law, the board of directors may fix a reasonable charge for the care and instruction of children attending such schools. The board may, if necessary, supplement such funds as are received for the superintendent of public instruction or any agency of the federal government, by an appropriation from the general school fund of the district.

Sec. 411 RCW 28A.215.020 and 1995 c 335 s 308 are each amended to read as follows:

Expenditures under federal funds and/ or state appropriations made to carry out the purposes of RCW 28A.215.010 through 28A.215.050 shall be made by warrants issued by the state treasurer upon order of the superintendent of public instruction. The ((~~state board of education~~))superintendent of public instruction shall make necessary rules ((~~and regulations~~)) to carry out the purpose of RCW 28A.215.010. After being notified by the office of the governor that there is an agency or department responsible for early learning, the superintendent shall consult with that agency when establishing relevant rules.

Sec. 412 RCW 28A.205.040 and 1999 c 348 s 4 are each amended to read as follows:

(1)(a) From funds appropriated for that purpose, the superintendent of public instruction shall pay fees to a certified center on a monthly basis for each student enrolled in compliance with RCW 28A.205.020. The superintendent shall set fees by rule.

(b) Revisions in such fees proposed by an education center shall become effective after thirty days notice unless the superintendent finds such a revision is unreasonable in which case the revision shall not take effect. ((~~An education center may, within fifteen days after such a finding by the superintendent, file notification of appeal with the state board of education which shall, no later than its second regularly scheduled meeting following notification of such appeal, either grant or deny the proposed revision.~~)) The administration of any general education development test shall not be a part of such initial diagnostic procedure.

(c) Reimbursements shall not be made for students who are absent.

(d) No center shall make any charge to any student, or the student's parent, guardian or custodian, for whom a fee is being received under the provisions of this section.

(2) Payments shall be made from available funds first to those centers that have in the judgment of the superintendent demonstrated superior performance based upon consideration of students' educational gains taking into account such students' backgrounds, and upon consideration of cost effectiveness. In considering the cost effectiveness of nonprofit centers the superintendent shall take into account not only payments made under this section but also factors such as tax exemptions, direct and indirect subsidies or any other cost to taxpayers at any level of government which result from such nonprofit status.

(3) To be eligible for such payment, every such center, without prior notice, shall permit a review of its accounting records by personnel of the state auditor during normal business hours.

(4) If total funds for this purpose approach depletion, the superintendent shall notify the centers of the date after which further funds for reimbursement of the centers' services will be exhausted.

Sec. 413 RCW 28A.215.140 and 1988 c 174 s 5 are each amended to read as follows:

The department shall establish an advisory committee composed of interested parents and representatives from ((~~the state board of education,~~)) the office of the superintendent of public instruction, the division of children and family services within the department of social and health services, early childhood education and development staff preparation programs, the head start programs, school districts, and such other community and business organizations as deemed necessary by the department to assist with the establishment of the preschool program and advise the department on matters regarding the on-going promotion and operation of the program.

Sec. 414 RCW 28A.230.020 and 1991 c 116 s 6 are each amended to read as follows:

All common schools shall give instruction in reading, penmanship, orthography, written and mental arithmetic, geography, the history of the United States, English grammar, physiology and hygiene with special reference to the effects of alcohol and drug abuse on the human system, science with special reference to the environment, and such other studies as may be prescribed by rule ((~~or regulation~~)) of the ((~~state board of education~~)) superintendent of public instruction. All teachers shall stress the importance of the cultivation of manners, the fundamental principles of honesty, honor, industry and economy, the minimum requisites for good health including the beneficial effect of physical exercise and methods to prevent exposure to and transmission of sexually transmitted diseases, and the worth of kindness to all living creatures and the land. The prevention of child abuse may be offered as part of the curriculum in the common schools.

Sec. 415 RCW 28A.230.040 and 1984 c 52 s 1 are each amended to read as follows:

Every pupil attending grades one through eight of the public schools shall receive instruction in physical education as prescribed by rule ((~~or regulation~~)) of the ((~~state board of education~~))superintendent of public instruction: PROVIDED,

That individual pupils or students may be excused on account of physical disability, religious belief, or participation in directed athletics.

Sec. 416 RCW 28A.230.050 and 1985 c 384 s 3 are each amended to read as follows:

All high schools of the state shall emphasize the work of physical education, and carry into effect all physical education requirements established by rule ((~~or regulation~~)) of the ((~~state board of education~~)) superintendent of public instruction: PROVIDED, That individual students may be excused from participating in physical education otherwise required under this section on account of physical disability, employment, or religious belief, or because of participation in directed athletics or military science and tactics or for other good cause.

Sec. 417 RCW 28A.330.100 and 1995 c 335 s 503 and 1995 c 77 s 22 are each reenacted and amended to read as follows:

Every board of directors of a school district of the first class, in addition to the general powers for directors enumerated in this title, shall have the power:

(1) To employ for a term of not exceeding three years a superintendent of schools of the district, and for cause to dismiss him or her((~~,~~)), and to fix his or her duties and compensation((~~,~~));

(2) To employ, and for cause dismiss one or more assistant superintendents and to define their duties and fix their compensation((~~,~~));

(3) To employ a business manager, attorneys, architects, inspectors of construction, superintendents of buildings and a superintendent of supplies, all of whom shall serve at the board's pleasure, and to prescribe their duties and fix their compensation((~~,~~));

(4) To employ, and for cause dismiss, supervisors of instruction and to define their duties and fix their compensation((~~,~~));

(5) To prescribe a course of study and a program of exercises which shall be consistent with the course of study prepared by the ((~~state board of education~~)) superintendent of public instruction for the use of the common schools of this state((~~,~~));

(6) To, in addition to the minimum requirements imposed by this title establish and maintain such grades and departments, including night, high, kindergarten, vocational training and, except as otherwise provided by law, industrial schools, and schools and departments for the education and training of any class or classes of youth with disabilities, as in the judgment of the board, best shall promote the interests of education in the district((~~,~~));

(7) To determine the length of time over and above one hundred eighty days that school shall be maintained: PROVIDED, That for purposes of apportionment no district shall be credited with more than one hundred and eighty-three days' attendance in any school year; and to fix the time for annual opening and closing of schools and for the daily dismissal of pupils before the regular time for closing schools((~~,~~));

(8) To maintain a shop and repair department, and to employ, and for cause dismiss, a foreman and the necessary help for the maintenance and conduct thereof((~~,~~));

(9) To provide free textbooks and supplies for all children attending school((~~,~~));

(10) To require of the officers or employees of the district to give a bond for the honest performance of their duties in such penal sum as may be fixed by the board with good and sufficient surety, and to cause the premium for all bonds required of all such officers or employees to be paid by the district: PROVIDED, That the board may, by written policy, allow that such bonds may include a deductible proviso not to exceed two percent of the officer's or employee's annual salary((~~,~~));

(11) To prohibit all secret fraternities and sororities among the students in any of the schools of the said districts((~~,~~)); and

(12) To appoint a practicing physician, resident of the school district, who shall be known as the school district medical inspector, and whose duty it shall be to decide for the board of directors all questions of sanitation and health affecting the safety and welfare of the public schools of the district who shall serve at the board's pleasure: PROVIDED, That children shall not be required to submit to vaccination against the will of their parents or guardian.

NEW SECTION. **Sec. 418** RCW 28A.305.220 is recodified as a new section in chapter 28A.230 RCW.

NEW SECTION. **Sec. 419** RCW 28A.305.170 is recodified as a new section in chapter 28A.300 RCW.

PART 5
SCHOOL DISTRICT BOUNDARIES

Sec. 501 RCW 28A.315.175 and 1999 c 315 s 302 are each amended to read as follows:

((~~The powers and duties of the state board with respect to this chapter shall be~~)) The superintendent of public instruction shall:

(1) ((~~To~~)) Aid regional committees in the performance of their duties by furnishing them with plans of procedure, standards, data, maps, forms, and other necessary materials and services essential to a study and understanding of the problems of school district organization in their respective educational service districts((~~.~~)); and

(2) ((~~To hear appeals as provided in RCW 28A.315.205~~)) Carry out powers and duties of the superintendent of public instruction relating to the organization and reorganization of school districts.

Sec. 502 RCW 28A.315.195 and 2003 c 413 s 2 are each amended to read as follows:

(1) A proposed change in school district organization by transfer of territory from one school district to another may be initiated by a petition in writing presented to the educational service district superintendent:

(a) Signed by at least fifty percent plus one of the active registered voters residing in the territory proposed to be transferred; or

(b) Signed by a majority of the members of the board of directors of one of the districts affected by a proposed transfer of territory.

(2) The petition shall state the name and number of each district affected, describe the boundaries of the territory proposed to be transferred, and state the reasons for desiring the change and the number of children of school age, if any, residing in the territory.

(3) The educational service district superintendent shall not complete any transfer of territory under this section that involves ten percent or more of the common school student population of the entire district from which the transfer is proposed, unless the educational service district superintendent has first called and held a special election of the voters of the entire school district from which the transfer of territory is proposed. The purpose of the election is to afford those voters an opportunity to approve or reject the proposed transfer. A simple majority shall determine approval or rejection.

(4) The ((~~state board~~)) superintendent of public instruction may establish rules limiting the frequency of petitions that may

be filed pertaining to territory included in whole or in part in a previous petition.

(5) Upon receipt of the petition, the educational service district superintendent shall notify in writing the affected districts that:

(a) Each school district board of directors, whether or not initiating a proposed transfer of territory, is required to enter into negotiations with the affected district or districts;

(b) In the case of a citizen-initiated petition, the affected districts must negotiate on the entire proposed transfer of territory;

(c) The districts have ninety calendar days in which to agree to the proposed transfer of territory;

(d) The districts may request and shall be granted by the educational service district superintendent one thirty-day extension to try to reach agreement; and

(e) Any district involved in the negotiations may at any time during the ninety-day period notify the educational service district superintendent in writing that agreement will not be possible.

(6) If the negotiating school boards cannot come to agreement about the proposed transfer of territory, the educational service district superintendent, if requested by the affected districts, shall appoint a mediator. The mediator has thirty days to work with the affected school districts to see if an agreement can be reached on the proposed transfer of territory.

(7) If the affected school districts cannot come to agreement about the proposed transfer of territory, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, either district may file with the educational service district superintendent a written request for a hearing by the regional committee.

(8) If the affected school districts cannot come to agreement about the proposed transfer of territory initiated by citizen petition, and the districts do not request the services of a mediator or the mediator was unable to bring the districts to agreement, the district in which the citizens who filed the petition reside shall file with the educational service district superintendent a written request for a hearing by the regional committee, unless a majority of the citizen petitioners request otherwise.

(9) Upon receipt of a notice under subsection (7) or (8) of this section, the educational service district superintendent shall notify the chair of the regional committee in writing within ten days.

(10) Costs incurred by school districts under this section shall be reimbursed by the state from such funds as are appropriated for this purpose.

Sec. 503 RCW 28A.315.205 and 2003 c 413 s 1 are each amended to read as follows:

(1) The chair of the regional committee shall schedule a hearing on the proposed transfer of territory at a location in the educational service district within sixty calendar days of being notified under RCW 28A.315.195 (7) or (8).

(2) Within thirty calendar days of the hearing under subsection (1) of this section, or final hearing if more than one is held by the committee, the committee shall issue its written findings and decision to approve or disapprove the proposed transfer of territory. The educational service district superintendent shall transmit a copy of the committee's decision to the superintendents of the affected school districts within ten calendar days.

(3) In carrying out the purposes of RCW 28A.315.015 and in making decisions as authorized under RCW 28A.315.095(1), the regional committee shall base its judgment upon whether and to the extent the proposed change in school district organization complies with RCW 28A.315.015(2) and rules adopted by the ((~~state board~~)) superintendent of public instruction under chapter 34.05 RCW.

(4) ((~~State board~~)) The rules under subsection (3) of this section shall provide for giving consideration to all of the following:

(a) Student educational opportunities as measured by the percentage of students performing at each level of the statewide mandated assessments and data regarding student attendance, graduation, and dropout rates;

(b) The safety and welfare of pupils. For the purposes of this subsection, "safety" means freedom or protection from danger, injury, or damage and "welfare" means a positive condition or influence regarding health, character, and well-being;

(c) The history and relationship of the property affected to the students and communities affected, including, for example, inclusion within a single school district, for school attendance and corresponding tax support purposes, of entire master planned communities that were or are to be developed pursuant to an integrated commercial and residential development plan with over one thousand dwelling units;

(d) Whether or not geographic accessibility warrants a favorable consideration of a recommended change in school district organization, including remoteness or isolation of places of residence and time required to travel to and from school; and

(e) All funding sources of the affected districts, equalization among school districts of the tax burden for general fund and capital purposes through a reduction in disparities in per pupil valuation when all funding sources are considered, improvement in the economies in the administration and operation of schools, and the extent the proposed change would potentially reduce or increase the individual and aggregate transportation costs of the affected school districts.

(5)(a)(i) A petitioner or school district may appeal a decision by the regional committee to the ((~~state board~~)) superintendent of public instruction based on the claim that the regional committee failed to follow the applicable statutory and regulatory procedures or acted in an arbitrary and capricious manner. Any such appeal shall be based on the record and the appeal must be filed within thirty days of the final decision of the regional committee. The appeal shall be heard and determined by an administrative law judge in the office of administrative hearings, based on the standards in (a)(ii) of this subsection.

(ii) If the ((~~state board~~)) administrative law judge finds that all applicable procedures were not followed or that the regional committee acted in an arbitrary and capricious manner, ((~~it~~)) the administrative law judge shall refer the matter back to the regional committee with an explanation of ((~~the board's~~)) his or her findings. The regional committee shall rehear the proposal.

(iii) If the ((~~state board~~)) administrative law judge finds that all applicable procedures were followed or that the regional committee did not act in an arbitrary and capricious manner, depending on the appeal, the educational service district shall be notified and directed to implement the changes.

(b) Any school district or citizen petitioner affected by a final decision of the regional committee may seek judicial review of the committee's decision in accordance with RCW 34.05.570.

Sec. 504 RCW 28A.315.015 and 1999 c 315 s 101 are each amended to read as follows:

(1) It is the purpose of this chapter to:

(a) Incorporate into a single, comprehensive, school district organization law all essential provisions governing:

(i) The formation and establishment of new school districts;

(ii) The alteration of the boundaries of existing districts; and

(iii) The adjustment of the assets and liabilities of school districts when changes are made under this chapter; and

(b) Establish methods and procedures whereby changes in the school district system may be brought about by the people concerned and affected.

(2) It is the state's policy that decisions on proposed changes in school district organization should be made, whenever possible, by negotiated agreement between the affected school districts. If the districts cannot agree, the decision shall be made by the regional committees on school district organization, based on the committees' best judgment, taking into consideration the following factors and factors under RCW 28A.315.205:

(a) A balance of local petition requests and the needs of the statewide community at large in a manner that advances the best interest of public education in the affected school districts and communities, the educational service district, and the state;

(b) Responsibly serving all of the affected citizens and students by contributing to logical service boundaries and recognizing a changing economic pattern within the educational service districts of the state;

(c) Enhancing the educational opportunities of pupils in the territory by reducing existing disparities among the affected school districts' ability to provide operating and capital funds through an equitable adjustment of the assets and liabilities of the affected districts;

(d) Promoting a wiser use of public funds through improvement in the school district system of the educational service districts and the state; and

(e) Other criteria or considerations as may be established in rule by the ((~~state board of education~~)) superintendent of public instruction.

(3) It is neither the intent nor purpose of this chapter to apply to organizational changes and the procedure therefor relating to capital fund aid by nonhigh school districts as provided for in chapter 28A.540 RCW.

Sec. 505 RCW 28A.315.025 and 1990 c 33 s 293 are each amended to read as follows:

As used in this chapter:

(1) "Change in the organization and extent of school districts" means the formation and establishment of new school districts, the dissolution of existing school districts, the alteration of the boundaries of existing school districts, or all of them.

(2) "Regional committee" means the regional committee on school district organization created by this chapter.

(3) ((~~"State board" means the state board of education.~~

~~(4)~~)) "School district" means the territory under the jurisdiction of a single governing board designated and referred to as the board of directors.

((~~(5)~~)) (4) "Educational service district superintendent" means the educational service district superintendent as provided for in RCW 28A.310.170 or his or her designee.

Sec. 506 RCW 28A.315.055 and 1999 c 315 s 203 are each amended to read as follows:

In case the boundaries of any of the school districts are conflicting or incorrectly described, the educational service district board of directors, after due notice and a public hearing, shall change, harmonize, and describe them and shall so certify, with a complete transcript of boundaries of all districts affected, such action to the ((~~state board~~)) superintendent of public instruction for ((~~its~~)) approval or revision. Upon receipt of notification of ((~~state board~~)) action by the superintendent of public instruction, the educational service district superintendent shall transmit to the county legislative authority of the county or counties in which the affected districts are located a complete transcript of the boundaries of all districts affected.

Sec. 507 RCW 28A.315.085 and 2005 c 497 s 405 are each amended to read as follows:

(1) The superintendent of public instruction shall furnish ((~~to the state board and~~)) to regional committees the services of employed personnel and the materials and supplies necessary to enable them to perform the duties imposed upon them by this chapter ((~~and~~)). Membersshall be reimbursed ((~~the members thereof~~)) for expenses necessarily incurred by them in the performance of their duties((~~, such reimbursement for regional committee members to be~~)) in accordance with RCW 28A.315.155((~~, and such reimbursement for state board members to be in accordance with RCW 28A.305.011~~)).

(2) Costs that may be incurred by an educational service district in association with school district negotiations under RCW 28A.315.195 and supporting the regional committee under RCW 28A.315.205 shall be reimbursed by the state from such funds as are appropriated for these purposes.

Sec. 508 RCW 28A.315.125 and 1993 c 416 s 2 are each amended to read as follows:

The members of each regional committee shall be elected in the following manner:

(1) On or before the 25th day of September, 1994, and not later than the 25th day of September of every subsequent even-numbered year, each superintendent of an educational service district shall call an election to be held in each educational service district within which resides a member of a regional committee whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in the educational service district. Such notice shall include instructions, and the rules ((~~and regulations~~)) established by the ((~~state board of education~~)) superintendent of public instructionfor the conduct of the election. The ((~~state board of education~~))superintendent of public instruction is ((~~hereby~~)) empowered to adopt rules pursuant to chapter 34.05 RCW which establish standards and procedures which the ((~~state board~~)) superintendent deems necessary to conduct elections pursuant to this section; to conduct run-off elections in the event an election for a position is indecisive; and to decide run-off elections which result in tie votes, in a fair and orderly manner.

(2) Candidates for membership on a regional committee shall file a declaration of candidacy with the superintendent of the educational service district wherein they reside. Declarations of candidacy may be filed by person or by mail not earlier than the 1st day of October, and not later than the 15th day of October of each even-numbered year. The superintendent may not accept any declaration of candidacy that is not on file in his or her office or not postmarked before the 16th day of October, or if not postmarked or the postmark is not legible, if received by mail after the 20th day of October of each even-numbered year.

(3) Each member of the regional committee shall be elected by a majority of the votes cast for all candidates for the position by the members of the boards of directors of school districts in the educational service district. All votes shall be cast by mail ballot addressed to the superintendent of the educational service district wherein the school director resides. No votes shall be accepted for counting if postmarked after the 16th day of November or if not postmarked or the postmark is not legible, if received by mail after the 21st day of November of each even-numbered year. An election board comprised of three

persons appointed by the board of the educational service district shall count and tally the votes not later than the 25th day of November or the next business day if the 25th falls on a Saturday, Sunday, or legal holiday of each even-numbered year. Each vote cast by a school director shall be recorded as one vote. Within ten days following the count of votes, the educational service district superintendent shall certify to the superintendent of public instruction the name or names of the person(s) elected to be members of the regional committee.

(4) In the event of a change in the number of educational service districts or in the number of educational service district board members pursuant to chapter 28A.310 RCW a new regional committee shall be elected for each affected educational service district at the next election conducted pursuant to this section. Those persons who were serving on a regional committee within an educational service district affected by a change in the number of districts or board members shall continue to constitute the regional committee for the educational service district within which they are registered to vote until the majority of a new board has been elected and certified.

(5) No member of a regional committee shall continue to serve thereon if he or she ceases to be a registered voter of the educational service district board member district or if he or she is absent from three consecutive meetings of the committee without an excuse acceptable to the committee.

Sec. 509 RCW 28A.315.185 and 1999 c 315 s 303 are each amended to read as follows:

To the extent funds are appropriated, the superintendent of public instruction, in cooperation with the educational service districts and the Washington state school directors' association, shall conduct an annual training meeting for the regional committees, ((~~state board members,~~)) educational service district superintendents, and local school district superintendents and boards of directors. Training may also be provided upon request.

PART 6
EDUCATIONAL SERVICE DISTRICTS

Sec. 601 RCW 28A.305.210 and 2005 c 518 s 913 are each amended to read as follows:

(1) ((~~The state board of education, by rule or regulation, may require the assistance of educational service district boards and/or superintendents in the performance of any duty, authority, or power imposed upon or granted to the state board of education by law, upon such terms and conditions as the state board of education shall establish. Such authority to assist the state board of education shall be limited to the service function of information collection and dissemination and the attestment to the accuracy and completeness of submitted information.~~

~~(2)~~)) During the 2005-2007 biennium until the effective date of this act, educational service districts may, at the request of the state board of education, receive and screen applications for school accreditation, conduct school accreditation site visits pursuant to state board of education rules, and submit to the state board of education postsite visit recommendations for school accreditation. The educational service districts may assess a cooperative service fee to recover actual plus reasonable indirect costs for the purposes of this subsection.

(2) This section expires July 1, 2007.

Sec. 602 RCW 28A.310.080 and 1977 ex.s. c 283 s 15 are each amended to read as follows:

((~~On or before the twenty-fifth day of August, 1978, and~~)) Not later than the twenty-fifth day of August of every ((~~subsequent~~)) even-numbered year, the ((~~secretary to the state board of education~~))superintendent of public instruction shall call an election to be held in each educational service district within which resides a member of the board of the educational service district whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in such educational service district. Such notice shall include instructions((~~,~~)) and rules((~~, and regulations~~)) established by the ((~~state board of education~~)) superintendent of public instruction for the conduct of the election.

Sec. 603 RCW 28A.310.030 and 1990 c 33 s 271 are each amended to read as follows:

Except as otherwise provided in this chapter, in each educational service district there shall be an educational service district board consisting of seven members elected by the school directors of the educational service district, one from each of seven educational service district board-member districts. Board-member districts in districts reorganized under RCW 28A.310.020, or as provided for in RCW 28A.310.120 and under this section, shall be initially determined by the state board of education. If a reorganization pursuant to RCW 28A.310.020 places the residence of a board member into another or newly created educational service district, such member shall serve on the board of the educational service district of residence and at the next election called by the ((~~secretary to the state board of education~~)) superintendent of public instruction pursuant to RCW 28A.310.080 a new seven member board shall be elected. If the redrawing of board-member district boundaries pursuant to this chapter shall cause the resident board-member district of two or more board members to coincide, such board members shall continue to serve on the board and at the next election called by the ((~~secretary to the state board of education~~)) superintendent of public instruction a new board shall be elected. The board-member districts shall be arranged so far as practicable on a basis of equal population, with consideration being given existing board members of existing educational service district boards. Each educational service district board member shall be elected by the school directors of each school district within the educational service district. Beginning in 1971 and every ten years thereafter, educational service district boards shall review and, if necessary, shall change the boundaries of board-member districts so as to provide so far as practicable equal representation according to population of such board-member districts and to conform to school district boundary changes: PROVIDED, That all board-member district boundaries, to the extent necessary to conform with this chapter, shall be immediately redrawn for the purposes of the next election called by the ((~~secretary to the state board of education~~)) superintendent of public instruction following any reorganization pursuant to this chapter. Such district board, if failing to make the necessary changes prior to June 1st of the appropriate year, shall refer for settlement questions on board-member district boundaries to the ((~~state board of education~~)) office of the superintendent of public instruction, which, after a public hearing, shall decide such questions.

Sec. 604 RCW 28A.310.050 and 1977 ex.s. c 283 s 19 are each amended to read as follows:

Any educational service district board may elect by resolution of the board to increase the board member size to nine board members. In such case positions number eight and nine shall be filled at the next election called by the ((~~secretary to the state board of education~~))superintendent of public instruction, position numbered eight to be for a term of two years, position numbered nine to be for a term of four years. Thereafter the terms for such positions shall be for four years.

Sec. 605 RCW 28A.310.060 and 1977 ex.s. c 283 s 20 are each amended to read as follows:

The term of every educational service district board member shall begin on the second Monday in January next following the election at which he or she was elected: PROVIDED, That a person elected to less than a full term pursuant to this section shall take office as soon as the election returns have been certified and he or she has qualified. In the event of a vacancy in the board from any cause, such vacancy shall be filled by appointment of a person from the same board-member district by the educational service district board. In the event that there are more than three vacancies in a seven-member board or four vacancies in a nine-member board, the ((~~state board of education~~))superintendent of public instruction shall fill by appointment sufficient vacancies so that there shall be a quorum of the board serving. Each appointed board member shall serve until his or her successor has been elected at the next election called by the ((~~secretary to the state board of education~~)) superintendent of public instruction and has qualified.

Sec. 606 RCW 28A.310.090 and 1977 ex.s. c 283 s 16 are each amended to read as follows:

Candidates for membership on an educational service district board shall file declarations of candidacy with the ((~~secretary to the state board of education~~)) superintendent of public instruction on forms prepared by the ((~~secretary~~)) superintendent. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, nor later than the sixteenth day of September. The ((~~secretary to the state board of education~~)) superintendent may not accept any declaration of candidacy that is not on file in his or her office or is not postmarked before the seventeenth day of September.

Sec. 607 RCW 28A.310.100 and 1980 c 179 s 7 are each amended to read as follows:

Each member of an educational service district board shall be elected by a majority of the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the ((~~secretary to the state board of education~~)) superintendent of public instruction and no votes shall be accepted for counting if postmarked after the sixteenth day of October or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of October following the call of the election. The ((~~secretary to the state board of education~~)) superintendent of public instruction and an election board comprised of three persons appointed by the ((~~state board of education~~)) superintendent shall count and tally the votes not later than the twenty-fifth day of October in the following manner: Each vote cast by a school director shall be accorded as one vote. If no candidate receives a majority of the votes cast, then, not later than the first day of November, the ((~~secretary to the state board of education~~)) superintendent of public instruction shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of votes cast. No vote cast at such second election shall be received for counting if postmarked after the sixteenth day of November or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the ((~~secretary to the state board of education~~)) superintendent of public instruction. Within ten days following the count of votes in an election at which a member of an educational service district board is elected, the ((~~secretary to the state board of education~~))superintendent of public instruction shall certify to the county auditor of the headquarters county of the educational service district the name or names of the persons elected to be members of the educational service district board.

Sec. 608 RCW 28A.310.140 and 1990 c 33 s 274 are each amended to read as follows:

Every school district must be included entirely within a single educational service district. If the boundaries of any school district within an educational service district are changed in any manner so as to extend the school district beyond the boundaries of that educational service district, the ((~~state board~~)) superintendent of public instruction shall change the boundaries of the educational service districts so affected in a manner consistent with the purposes of RCW 28A.310.010 and this section.

Sec. 609 RCW 28A.310.150 and 1990 c 33 s 275 are each amended to read as follows:

Every candidate for membership on a educational service district board shall be a registered voter and a resident of the board-member district for which such candidate files. On or before the date for taking office, every member shall make an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of the office according to the best of such member's ability. The members of the board shall not be required to give bond unless so directed by the ((~~state board of education~~)) superintendent of public instruction. At the first meeting of newly elected members and after the qualification for office of the newly elected members, each educational service district board shall reorganize by electing a chair and a vice chair. A majority of all of the members of the board shall constitute a quorum.

Sec. 610 RCW 28A.310.200 and 2001 c 143 s 1 are each amended to read as follows:

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Approve the budgets of the educational service district in accordance with the procedures provided for in this chapter((~~.~~));

(2) Meet regularly according to the schedule adopted at the organization meeting and in special session upon the call of the chair or a majority of the board((~~.~~));

(3) Approve the selection of educational service district personnel and clerical staff as provided in RCW 28A.310.230((~~.~~));

(4) Fix the amount of and approve the bonds for those educational service district employees designated by the board as being in need of bonding((~~.~~));

(5) Keep in the educational service district office a full and correct transcript of the boundaries of each school district within the educational service district((~~.~~));

(6) Acquire by borrowing funds or by purchase, lease, devise, bequest, and gift and otherwise contract for real and personal property necessary for the operation of the educational service district and to the execution of the duties of the board and superintendent thereof and sell, lease, or otherwise dispose of that property not necessary for district purposes. No real property shall be acquired or alienated without the prior approval of the ((~~state board of education~~))superintendent of public instruction and the acquisition or alienation of all such property shall be subject to such provisions as the ((~~board~~)) superintendent may establish. When borrowing funds for the purpose of acquiring property, the educational service district board shall pledge as collateral the property to be acquired. Borrowing shall be evidenced by a note or other instrument

between the district and the lender((~~.~~));

(7) Under RCW 28A.310.010, upon the written request of the board of directors of a local school district or districts served by the educational service district, the educational service district board of directors may provide cooperative and informational services not in conflict with other law that provide for the development and implementation of programs, activities, services, or practices that support the education of preschool through twelfth grade students in the public schools or that support the effective, efficient, or safe management and operation of the school district or districts served by the educational service district((~~.~~));

(8) Adopt such bylaws and rules ((~~and regulations~~)) for its own operation as it deems necessary or appropriate((~~.~~)); and

(9) Enter into contracts, including contracts with common and educational service districts and the school for the deaf and the school for the blind for the joint financing of cooperative service programs conducted pursuant to RCW 28A.310.180(3), and employ consultants and legal counsel relating to any of the duties, functions, and powers of the educational service districts.

Sec. 611 RCW 28A.310.310 and 1990 c 33 s 284 are each amended to read as follows:

The educational service district board shall designate the headquarters office of the educational service district. Educational service districts shall provide for their own office space, heating, contents insurance, electricity, and custodial services, which may be obtained through contracting with any board of county commissioners. Official records of the educational service district board and superintendent, including each of the county superintendents abolished by chapter 176, Laws of 1969 ex. sess., shall be kept by the educational service district superintendent. Whenever the boundaries of any of the educational service districts are reorganized pursuant to RCW 28A.310.020, the ((~~state board of education~~)) superintendent of public instruction shall supervise the transferral of such records so that each educational service district superintendent shall receive those records relating to school districts within the appropriate educational service district.

Sec. 612 RCW 28A.323.020 and 1985 c 385 s 25 are each amended to read as follows:

The duties in this chapter imposed upon and required to be performed by a regional committee and by an educational service district superintendent in connection with a change in the organization and extent of school districts and/or with the adjustment of the assets and liabilities of school districts and with all matters related to such change or adjustment whenever territory lying in a single educational service district is involved shall be performed jointly by the regional committees and by the superintendents of the several educational service districts as required whenever territory lying in more than one educational service district is involved in a proposed change in the organization and extent of school districts: PROVIDED, That a regional committee may designate three of its members, or two of its members and the educational service district superintendent, as a subcommittee to serve in lieu of the whole committee, but action by a subcommittee shall not be binding unless approved by a majority of the regional committee. Proposals for changes in the organization and extent of school districts and proposed terms of adjustment of assets and liabilities thus prepared and approved shall be submitted to the ((~~state board~~)) superintendent of public instruction by the regional committee of the educational service district in which is located the part of the proposed or enlarged district having the largest number of common school pupils residing therein.

Sec. 613 RCW 28A.323.040 and 1973 c 47 s 3 are each amended to read as follows:

For all purposes essential to the maintenance, operation, and administration of the schools of a district, including the apportionment of current state and county school funds, the county in which a joint school district shall be considered as belonging shall be as designated by the ((~~state board of education~~)) superintendent of public instruction. Prior to making such designation, the ((~~state board of education~~)) superintendent of public instruction shall hold at least one public hearing on the matter, at which time the recommendation of the joint school district shall be presented and, in addition to such recommendation, the ((~~state board~~)) superintendentshall consider the following prior to its designation:

(1) Service needs of such district;

(2) Availability of services;

(3) Geographic location of district and servicing agencies; and

(4) Relationship to contiguous school districts.

Sec. 614 RCW 29A.24.070 and 2005 c 221 s 1 are each amended to read as follows:

Declarations of candidacy shall be filed with the following filing officers:

(1) The secretary of state for declarations of candidacy for statewide offices, United States senate, and United States house of representatives;

(2) The secretary of state for declarations of candidacy for the state legislature, the court of appeals, and the superior court when the candidate is seeking office in a district comprised of voters from two or more counties. The secretary of state and the county auditor may accept declarations of candidacy for candidates for the state legislature, the court of appeals, and the superior court when the candidate is seeking office in a district comprised of voters from one county;

(3) The county auditor for all other offices. For any nonpartisan office, other than judicial offices and school director in joint districts, where voters from a district comprising more than one county vote upon the candidates, a declaration of candidacy shall be filed with the county auditor of the county in which a majority of the registered voters of the district reside. For school directors in joint school districts, the declaration of candidacy shall be filed with the county auditor of the county designated by the ((~~state board of education~~)) superintendent of public instruction as the county to which the joint school district is considered as belonging under RCW 28A.323.040;

(4) For all other purposes of this title, a declaration of candidacy for the state legislature, the court of appeals, and the superior court filed with the secretary of state shall be deemed to have been filed with the county auditor when the candidate is seeking office in a district composed of voters from one county.

Each official with whom declarations of candidacy are filed under this section, within one business day following the closing of the applicable filing period, shall transmit to the public disclosure commission the information required in RCW 29A.24.031 (1) through (4) for each declaration of candidacy filed in his or her office during such filing period or a list containing the name of each candidate who files such a declaration in his or her office during such filing period together with a precise identification of the position sought by each such candidate and the date on which each such declaration was filed. Such official, within three days following his or her receipt of any letter withdrawing a person's name as a candidate, shall also forward a copy of such withdrawal letter to the public disclosure commission.

Sec. 615 RCW 84.09.037 and 1990 c 33 s 597 are each amended to read as follows:

Each school district affected by a transfer of territory from one school district to another school district under chapter 28A.315 RCW shall retain its preexisting boundaries for the purpose of the collection of excess tax levies authorized under RCW 84.52.053 before the effective date of the transfer, for such tax collection years and for such excess tax levies as the ((~~state board of education~~))superintendent of public instruction may approve and order that the transferred territory shall either be subject to or relieved of such excess levies, as the case may be. For the purpose of all other excess tax levies previously authorized under chapter 84.52 RCW and all excess tax levies authorized under RCW 84.52.053 subsequent to the effective date of a transfer of territory, the boundaries of the affected school districts shall be modified to recognize the transfer of territory subject to RCW 84.09.030.

PART 7
STUDENTS

Sec. 701 RCW 28A.305.160 and 1996 c 321 s 2 are each amended to read as follows:

(1) The ((~~state board of education~~)) superintendent of public instruction shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules shall authorize a school district to use informal due process procedures in connection with the short-term suspension of students to the extent constitutionally permissible: PROVIDED, That the ((~~state board~~))superintendent of public instruction deems the interest of students to be adequately protected. When a student suspension or expulsion is appealed, the rules shall authorize a school district to impose the suspension or expulsion temporarily after an initial hearing for no more than ten consecutive school days or until the appeal is decided, whichever is earlier. Any days that the student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student suspension or expulsion and shall not limit or extend the term of the student suspension or expulsion.

(2) Short-term suspension procedures may be used for suspensions of students up to and including, ten consecutive school days.

Sec. 702 RCW 28A.150.300 and 1993 c 68 s 1 are each amended to read as follows:

The use of corporal punishment in the common schools is prohibited. The ((~~state board of education, in consultation with the~~)) superintendent of public instruction((~~,~~)) shall develop and adopt a policy prohibiting the use of corporal punishment in the common schools. The policy shall be adopted ((~~by the state board of education no later than February 1, 1994,~~)) and ((~~shall take effect~~)) implementedin all school districts ((~~September 1, 1994~~)).

Sec. 703 RCW 28A.225.160 and 1999 c 348 s 5 are each amended to read as follows:

Except as otherwise provided by law, it is the general policy of the state that the common schools shall be open to the admission of all persons who are five years of age and less than twenty-one years residing in that school district. Except as otherwise provided by law or rules adopted by the ((~~state board of education~~)) superintendent of public instruction, districts may establish uniform entry qualifications, including but not limited to birth date requirements, for admission to kindergarten and first grade programs of the common schools. Such rules may provide for exceptions based upon the ability, or the need, or both, of an individual student. For the purpose of complying with any rule adopted by the ((~~state board of education which~~)) superintendent of public instruction that authorizes a preadmission screening process as a prerequisite to granting exceptions to the uniform entry qualifications, a school district may collect fees to cover expenses incurred in the administration of any preadmission screening process: PROVIDED, That in so establishing such fee or fees, the district shall adopt regulations for waiving and reducing such fees in the cases of those persons whose families, by reason of their low income, would have difficulty in paying the entire amount of such fees.

NEW SECTION. **Sec. 704** A new section is added to chapter 28A.300 RCW to read as follows:

The superintendent of public instruction shall adopt rules relating to pupil tests and records.

Sec. 705 RCW 28A.300.150 and 1994 c 245 s 8 are each amended to read as follows:

The superintendent of public instruction shall collect and disseminate to school districts information on child abuse and neglect prevention curriculum and shall adopt rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools. The superintendent of public instruction and the departments of social and health services and community, trade, and economic development shall share relevant information.

Sec. 706 RCW 28A.600.020 and 1997 c 266 s 11 are each amended to read as follows:

(1) The rules adopted pursuant to RCW 28A.600.010 shall be interpreted to ((~~insure~~)) ensure that the optimum learning atmosphere of the classroom is maintained, and that the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day, or up to the following two days, or until the principal or designee and teacher have conferred, whichever occurs first. Except in emergency circumstances, the teacher first must attempt one or more alternative forms of corrective action. In no event without the consent of the teacher may an excluded student return to the class during the balance of that class or activity period or up to the following two days, or until the principal or his or her designee and the teacher have conferred.

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students. The procedures must be consistent with the rules of the ((~~state board of education~~)) superintendent of public instruction and must provide for early involvement of parents in attempts to improve the student's behavior.

(4) The procedures shall assure, pursuant to RCW 28A.400.110, that all staff work cooperatively toward consistent

enforcement of proper student behavior throughout each school as well as within each classroom.

(5) A principal shall consider imposing long-term suspension or expulsion as a sanction when deciding the appropriate disciplinary action for a student who, after July 27, 1997:

(a) Engages in two or more violations within a three-year period of RCW 9A.46.120, 28A.320.135, 28A.600.455, 28A.600.460, 28A.635.020, 28A.600.020, 28A.635.060, 9.41.280, or 28A.320.140; or

(b) Engages in one or more of the offenses listed in RCW 13.04.155.

The principal shall communicate the disciplinary action taken by the principal to the school personnel who referred the student to the principal for disciplinary action.

Sec. 707 RCW 28A.600.030 and 1990 c 33 s 498 are each amended to read as follows:

Each school district board of directors may establish student grading policies which permit teachers to consider a student's attendance in determining the student's overall grade or deciding whether the student should be granted or denied credit. Such policies shall take into consideration the circumstances pertaining to the student's inability to attend school. However, no policy shall be adopted whereby a grade shall be reduced or credit shall be denied for disciplinary reasons only, rather than for academic reasons, unless due process of law is provided as set forth by the ((~~state board of education~~)) superintendent of public instruction under RCW 28A.305.160(as recodified by this act).

NEW SECTION. **Sec. 708** RCW 28A.305.160 is recodified as a new section in chapter 28A.600 RCW.

PART 8
TRANSFER OF PROFESSIONAL EDUCATOR STANDARDS BOARD DUTIES

Sec. 801 RCW 18.35.020 and 2005 c 45 s 2 are each amended to read as follows:

(1) No person shall engage in the fitting and dispensing of hearing instruments or imply or represent that he or she is engaged in the fitting and dispensing of hearing instruments unless he or she is a licensed hearing instrument fitter/dispenser or a licensed audiologist or holds an interim permit issued by the department as provided in this chapter and is an owner or employee of an establishment that is bonded as provided by RCW 18.35.240. The owner or manager of an establishment that dispenses hearing instruments is responsible under this chapter for all transactions made in the establishment name or conducted on its premises by agents or persons employed by the establishment engaged in fitting and dispensing of hearing instruments. Every establishment that fits and dispenses shall have in its employ at least one licensed hearing instrument fitter/dispenser or licensed audiologist at all times, and shall annually submit proof that all testing equipment at that establishment that is required by the board to be calibrated has been properly calibrated.

(2) Effective January 1, 2003, no person shall engage in the practice of audiology or imply or represent that he or she is engaged in the practice of audiology unless he or she is a licensed audiologist or holds an audiology interim permit issued by the department as provided in this chapter. Audiologists who are certified as educational staff associates by the ((~~state board of education~~))Washington professional educator standards board are excluded unless they elect to become licensed under this chapter. However, a person certified by the state board of education as an educational staff associate who practices outside the school setting must be a licensed audiologist.

(3) Effective January 1, 2003, no person shall engage in the practice of speech-language pathology or imply or represent that he or she is engaged in the practice of speech-language pathology unless he or she is a licensed speech-language pathologist or holds a speech-language pathology interim permit issued by the department as provided in this chapter. Speech-language pathologists who are certified as educational staff associates by the state board of education are excluded unless they elect to become licensed under this chapter. However, a person certified by the state board of education as an educational staff associate who practices outside the school setting must be a licensed speech-language pathologist.

Sec. 802 RCW 18.35.195 and 2005 c 45 s 4 are each amended to read as follows:

(1) This chapter shall not apply to military or federal government employees.

(2) This chapter does not prohibit or regulate:

(a) Fitting or dispensing by students enrolled in a board-approved program who are directly supervised by a licensed hearing instrument fitter/dispenser, a licensed audiologist under the provisions of this chapter, or an instructor at a two-year hearing instrument fitter/dispenser degree program that is approved by the board;

(b) Hearing instrument fitter/dispensers, speech-language pathologists, or audiologists of other states, territories, or countries, or the District of Columbia while appearing as clinicians of bona fide educational seminars sponsored by speech-language pathology, audiology, hearing instrument fitter/dispenser, medical, or other healing art professional associations so long as such activities do not go beyond the scope of practice defined by this chapter; and

(c) The practice of audiology or speech-language pathology by persons certified by the ((~~state board of education~~)) Washington professional educator standards board as educational staff associates, except for those persons electing to be licensed under this chapter. However, a person certified by the ((~~state~~)) board ((~~of education~~)) as an educational staff associate who practices outside the school setting must be a licensed audiologist or licensed speech-language pathologist.

Sec. 803 RCW 18.83.200 and 1986 c 27 s 10 are each amended to read as follows:

This chapter shall not apply to:

(1) Any person teaching, lecturing, consulting, or engaging in research in psychology but only insofar as such activities are performed as a part of or are dependent upon a position in a college or university in the state of Washington.

(2) Any person who holds a valid school psychologist credential from the Washington ((~~state board of education~~)) professional educator standards board but only when such a person is practicing psychology in the course of his or her employment.

(3) Any person employed by a local, state, or federal government agency whose psychologists must qualify for employment under federal or state certification or civil service regulations; but only at those times when that person is carrying out the functions of his or her employment.

(4) Any person who must qualify under the employment requirements of a business or industry and who is employed by a business or industry which is not engaged in offering psychological services to the public, but only when such person is carrying out the functions of his or her employment: PROVIDED, That no person exempt from licensing under this subsection shall engage in the clinical practice of psychology.

(5) Any person who is a student of psychology, psychological intern, or resident in psychology preparing for the profession of psychology under supervision in a training institution or facilities and who is designated by the title such as "psychological trainee," "psychology student," which thereby indicates his or her training status.

(6) Any person who has received a doctoral degree from an accredited institution of higher learning with an adequate major in sociology or social psychology as determined by the board and who has passed comprehensive examinations in the field of social psychology as part of the requirements for the doctoral degree. Such persons may use the title "social psychologist" provided that they file a statement of their education with the board.

Sec. 804 RCW 28A.625.360 and 1990 1st ex.s. c 10 s 2 are each amended to read as follows:

(1) The ((~~state board of education~~)) professional educator standards board shall establish an annual award program for excellence in teacher preparation to recognize higher education teacher educators for their leadership, contributions, and commitment to education.

(2) The program shall recognize annually one teacher preparation faculty member from one of the teacher preparation programs approved by the ((~~state board of education~~)) professional educator standards board.

Sec. 805 RCW 28A.225.330 and 1999 c 198 s 3 are each amended to read as follows:

(1) When enrolling a student who has attended school in another school district, the school enrolling the student may request the parent and the student to briefly indicate in writing whether or not the student has:

(a) Any history of placement in special educational programs;

(b) Any past, current, or pending disciplinary action;

(c) Any history of violent behavior, or behavior listed in RCW 13.04.155;

(d) Any unpaid fines or fees imposed by other schools; and

(e) Any health conditions affecting the student's educational needs.

(2) The school enrolling the student shall request the school the student previously attended to send the student's permanent record including records of disciplinary action, history of violent behavior or behavior listed in RCW 13.04.155, attendance, immunization records, and academic performance. If the student has not paid a fine or fee under RCW 28A.635.060, or tuition, fees, or fines at approved private schools the school may withhold the student's official transcript, but shall transmit information about the student's academic performance, special placement, immunization records, records of disciplinary action, and history of violent behavior or behavior listed in RCW 13.04.155. If the official transcript is not sent due to unpaid tuition, fees, or fines, the enrolling school shall notify both the student and parent or guardian that the official transcript will not be sent until the obligation is met, and failure to have an official transcript may result in exclusion from extracurricular activities or failure to graduate.

(3) If information is requested under subsection (2) of this section, the information shall be transmitted within two school days after receiving the request and the records shall be sent as soon as possible. Any school district or district employee who releases the information in compliance with this section is immune from civil liability for damages unless it is shown that the school district employee acted with gross negligence or in bad faith. The ((~~state board of education~~)) professional educator standards board shall provide by rule for the discipline under chapter 28A.410 RCW of a school principal or other chief administrator of a public school building who fails to make a good faith effort to assure compliance with this subsection.

(4) Any school district or district employee who releases the information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith.

(5) When a school receives information under this section or RCW 13.40.215 that a student has a history of disciplinary actions, criminal or violent behavior, or other behavior that indicates the student could be a threat to the safety of educational staff or other students, the school shall provide this information to the student's teachers and security personnel.

Sec. 806 RCW 28A.405.110 and 1985 c 420 s 1 are each amended to read as follows:

The legislature recognizes the importance of teachers in the educational system. Teachers are the fundamental element in assuring a quality education for the state's and the nation's children. Teachers, through their direct contact with children, have a great impact on the development of the child. The legislature finds that this important role of the teacher requires an assurance that teachers are as successful as possible in attaining the goal of a well-educated society. The legislature finds, therefore, that the evaluation of those persons seeking to enter the teaching profession is no less important than the evaluation of those persons currently teaching. The evaluation of persons seeking teaching credentials should be strenuous while making accommodations uniquely appropriate to the applicants. Strenuous teacher training and preparation should be complemented by examinations of prospective teachers prior to candidates being granted official certification by the ((~~state board of education~~)) professional educator standards board. Teacher preparation program entrance evaluations, teacher training, teacher preparation program exit examinations, official certification, in-service training, and ongoing evaluations of individual progress and professional growth are all part of developing and maintaining a strong precertification and postcertification professional education system.

The legislature further finds that an evaluation system for teachers has the following elements, goals, and objectives: (1) An evaluation system must be meaningful, helpful, and objective; (2) an evaluation system must encourage improvements in teaching skills, techniques, and abilities by identifying areas needing improvement; (3) an evaluation system must provide a mechanism to make meaningful distinctions among teachers and to acknowledge, recognize, and encourage superior teaching performance; and (4) an evaluation system must encourage respect in the evaluation process by the persons conducting the evaluations and the persons subject to the evaluations through recognizing the importance of objective standards and minimizing subjectivity.

Sec. 807 RCW 28A.415.010 and 1991 c 285 s 1 are each amended to read as follows:

It shall be the responsibility of each educational service district board to establish a center for the improvement of teaching. The center shall administer, coordinate, and act as fiscal agent for such programs related to the recruitment and training of certificated and classified K-12 education personnel as may be delegated to the center by the superintendent of public instruction under RCW 28A.310.470((~~, or the state board of education under RCW 28A.310.480~~)). To assist in these activities, each educational service district board shall establish an improvement of teaching coordinating council to include, at a minimum, representatives as specified in RCW 28A.415.040.

An existing in-service training task force, established pursuant to RCW 28A.415.040, may serve as the improvement of teaching coordinating council. The educational service district board shall ensure coordination of programs established pursuant to RCW 28A.415.030, 28A.410.060, and 28A.415.250.

The educational service district board may arrange each year for the holding of one or more teachers' institutes and/or workshops for professional staff preparation and in-service training in such manner and at such time as the board believes will be of benefit to the teachers and other professional staff of school districts within the educational service district and shall comply with rules ((~~and regulations of the state board of education~~)) of the professional educator standards board pursuant to RCW 28A.410.060 or the superintendent of public instruction ((~~or state board of education~~)) pursuant to RCW 28A.415.250. The board may provide such additional means of teacher and other professional staff preparation and in-service training as it may deem necessary or appropriate and there shall be a proper charge against the educational service district general expense fund when approved by the educational service district board.

Educational service district boards of contiguous educational service districts, by mutual arrangements, may hold joint institutes and/or workshops, the expenses to be shared in proportion to the numbers of certificated personnel as shown by the last annual reports of the educational service districts holding such joint institutes or workshops.

In local school districts employing more than one hundred teachers and other professional staff, the school district superintendent may hold a teachers' institute of one or more days in such district, said institute when so held by the school district superintendent to be in all respects governed by the provisions of this title and ((~~state board of education~~)) rules ((~~and regulations~~)) relating to teachers' institutes held by educational service district superintendents.

Sec. 808 RCW 28A.415.020 and 1995 c 284 s 2 are each amended to read as follows:

(1) Certificated personnel shall receive for each ten clock hours of approved in-service training attended the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(2) Certificated personnel shall receive for each ten clock hours of approved continuing education earned, as continuing education is defined by rule adopted by the ((~~state board of education~~))professional educator standards board, the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(3) Certificated personnel shall receive for each forty clock hours of participation in an approved internship with a business, an industry, or government, as an internship is defined by rule of the ((~~state board of education~~)) professional educator standards board in accordance with RCW 28A.415.025, the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(4) An approved in-service training program shall be a program approved by a school district board of directors, which meet standards adopted by the ((~~state board of education~~)) professional educator standards board, and the development of said program has been participated in by an in-service training task force whose membership is the same as provided under RCW 28A.415.040, or a program offered by an education agency approved to provide in-service for the purposes of continuing education as provided for under rules adopted by the ((~~state board of education~~)) professional educator standards board, or both.

(5) Clock hours eligible for application to the salary schedule developed by the legislative evaluation and accountability program committee as described in subsections (1) and (2) of this section, shall be those hours acquired after August 31, 1987. Clock hours eligible for application to the salary schedule as described in subsection (3) of this section shall be those hours acquired after December 31, 1995.

Sec. 809 RCW 28A.415.024 and 2005 c 461 s 1 are each amended to read as follows:

(1) All credits earned in furtherance of degrees earned by certificated staff, that are used to increase earnings on the salary schedule consistent with RCW 28A.415.023, must be obtained from an educational institution accredited by an accrediting association recognized by rule of the ((~~state board of education~~)) professional educator standards board.

(2) The office of the superintendent of public instruction shall verify for school districts the accreditation status of educational institutions granting degrees that are used by certificated staff to increase earnings on the salary schedule consistent with RCW 28A.415.023.

(3) The office of the superintendent of public instruction shall provide school districts with training and additional resources to ensure they can verify that degrees earned by certificated staff, that are used to increase earnings on the salary schedule consistent with RCW 28A.415.023, are obtained from an educational institution accredited by an accrediting association recognized by rule of the ((~~state board of education~~)) professional educator standards board.

(4)(a) No school district may submit degree information before there has been verification of accreditation under subsection (3) of this section.

(b) Certificated staff who submit degrees received from an unaccredited educational institution for the purposes of receiving a salary increase shall be fined three hundred dollars. The fine shall be paid to the office of the superintendent of public instruction and used for costs of administering this section.

(c) In addition to the fine in (b) of this subsection, certificated staff who receive salary increases based upon degrees earned from educational institutions that have been verified to be unaccredited must reimburse the district for any compensation received based on these degrees.

Sec. 810 RCW 28A.415.025 and 1995 c 284 s 3 are each amended to read as follows:

The ((~~state board of education~~)) professional educator standards board shall establish rules for awarding clock hours for participation of certificated personnel in internships with business, industry, or government. To receive clock hours for an internship, the individual must demonstrate that the internship will provide beneficial skills and knowledge in an area directly related to his or her current assignment, or to his or her assignment for the following school year. An individual may not receive more than the equivalent of two college quarter credits for internships during a calendar-year period. The total number of credits for internships that an individual may earn to advance on the salary schedule developed by the legislative evaluation and accountability program committee or its successor agency is limited to the equivalent of fifteen college quarter credits.

Sec. 811 RCW 28A.415.105 and 1995 c 335 s 403 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions

in this section apply throughout RCW 28A.415.125 through 28A.415.140.

(1) "Cooperating organizations" means that at least one school district, one college or university, and one educational service district are involved jointly with the development of a student teaching center.

(2) "Cooperating teacher" means a teacher who holds a continuing certificate and supervises and coaches a student teacher.

(3) "Field experience" means opportunities for observation, tutoring, microteaching, extended practicums, and clinical and laboratory experiences which do not fall within the meaning of student teaching.

(4) "School setting" means a classroom in a public, common school in the state of Washington.

(5) "Student teacher" means a candidate for initial teacher certification who is in a ((~~state board of education-approved~~))professional educator standards board-approved, or regionally or nationally accredited teacher preparation program in a school setting as part of the field-based component of their preparation program.

(6) "Student teaching" means the full quarter or semester in a school setting during which the student teacher observes the cooperating teacher, participates in instructional activities, and assumes both part-time and full-time teaching responsibilities under the supervision of the cooperating teacher.

(7) "Student teaching center" means the program established to provide student teachers in a geographic region of the state with special support and training as part of their teacher preparation program.

(8) "Supervisor or university supervisor" means the regular or adjunct faculty member, or college or university-approved designee, who assists and supervises the work of cooperating teachers and student teachers.

Sec. 812 RCW 28A.415.125 and 1991 c 258 s 6 are each amended to read as follows:

The ((~~state board of education~~)) professional educator standards board, from appropriated funds, shall establish a network of student teaching centers to support the continuing development of the field-based component of teacher preparation programs. The purpose of the training centers is to:

(1) Expand opportunities for student teacher placements in school districts statewide, with an emphasis on those populations and locations that are unserved or underserved;

(2) Provide cooperating teachers for all student teachers during their student internship for up to two academic quarters;

(3) Enhance the student teaching component of teacher preparation programs, including a placement of student teachers in special education and multi-ethnic school settings; and

(4) Expand access to each other and opportunities for collaboration in teacher education between colleges and universities and school districts.

Sec. 813 RCW 28A.415.130 and 1991 c 258 s 7 are each amended to read as follows:

Funds for the student teaching centers shall be allocated by the superintendent of public instruction among the educational service district regions on the basis of student teaching placements. The fiscal agent for each center shall be either an educational service district or a state institution of higher education. Prospective fiscal agents shall document to the ((~~state board of education~~))professional educator standards board the following information:

(1) The existing or proposed center was developed jointly through a process including participation by at least one school district, one college or university, and one educational service district;

(2) Primary administration for each center shall be the responsibility of one or more of the cooperating organizations;

(3) Assurance that the training center program provides appropriate and necessary training in observation, supervision, and assistance skills and techniques for:

(a) Cooperating teachers;

(b) Other school building personnel; and

(c) School district employees.

Sec. 814 RCW 28A.415.145 and 1991 c 258 s 10 are each amended to read as follows:

The ((~~state board of education~~)) professional educator standards board and the superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to carry out the purposes of RCW 28A.415.100 through 28A.415.140.

Sec. 815 RCW 28A.630.400 and 1995 c 335 s 202 and 1995 c 77 s 27 are each reenacted and amended to read as follows:

(1) The ((~~state board of education~~)) professional educator standards board and the state board for community and technical colleges, in consultation with the superintendent of public instruction, the higher education coordinating board, the state apprenticeship training council, and community colleges, shall adopt rules as necessary under chapter 34.05 RCW to implement the paraeducator associate of arts degree.

(2) As used in this section, a "paraeducator" is an individual who has completed an associate of arts degree for a paraeducator. The paraeducator may be hired by a school district to assist certificated instructional staff in the direct instruction of children in small and large groups, individualized instruction, testing of children, recordkeeping, and preparation of materials. The paraeducator shall work under the direction of instructional certificated staff.

(3) The training program for a paraeducator associate of arts degree shall include, but is not limited to, the general requirements for receipt of an associate of arts degree and training in the areas of introduction to childhood education, orientation to children with disabilities, fundamentals of childhood education, creative activities for children, instructional materials for children, fine art experiences for children, the psychology of learning, introduction to education, child health and safety, child development and guidance, first aid, and a practicum in a school setting.

(4) Consideration shall be given to transferability of credit earned in this program to teacher preparation programs at colleges and universities.

Sec. 816 RCW 28A.660.020 and 2004 c 23 s 2 are each amended to read as follows:

(1) Each district or consortia of school districts applying for the alternative route certification program shall submit a proposal to the Washington professional educator standards board specifying:

(a) The route or routes the partnership program intends to offer and a detailed description of how the routes will be structured and operated by the partnership;

(b) The number of candidates that will be enrolled per route;

(c) An identification, indication of commitment, and description of the role of approved teacher preparation programs that are partnering with the district or consortia of districts;

(d) An assurance of district provision of adequate training for mentor teachers either through participation in a state mentor training academy or district-provided training that meets state-established mentor-training standards specific to the mentoring of alternative route candidates;

(e) An assurance that significant time will be provided for mentor teachers to spend with the alternative route teacher

candidates throughout the internship. Partnerships must provide each candidate with intensive classroom mentoring until such time as the candidate demonstrates the competency necessary to manage the classroom with less intensive supervision and guidance from a mentor;

(f) A description of the rigorous screening process for applicants to alternative route programs, including entry requirements specific to each route, as provided in RCW 28A.660.040; and

(g) The design and use of a teacher development plan for each candidate. The plan shall specify the alternative route coursework and training required of each candidate and shall be developed by comparing the candidate's prior experience and coursework with the state's new performance-based standards for residency certification and adjusting any requirements accordingly. The plan may include the following components:

(i) A minimum of one-half of a school year, and an additional significant amount of time if necessary, of intensive mentorship, starting with full-time mentoring and progressing to increasingly less intensive monitoring and assistance as the intern demonstrates the skills necessary to take over the classroom with less intensive support. For route one and two candidates, before the supervision is diminished, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the higher education teacher preparation program must both agree that the teacher candidate is ready to manage the classroom with less intensive supervision. For route three and four candidates, the mentor of the teacher candidate shall make the decision;

(ii) Identification of performance indicators based on the knowledge and skills standards required for residency certification by the ((~~state board of education~~)) Washington professional educator standards board;

(iii) Identification of benchmarks that will indicate when the standard is met for all performance indicators;

(iv) A description of strategies for assessing candidate performance on the benchmarks;

(v) Identification of one or more tools to be used to assess a candidate's performance once the candidate has been in the classroom for about one-half of a school year; and

(vi) A description of the criteria that would result in residency certification after about one-half of a school year but before the end of the program.

(2) To the extent funds are appropriated for this purpose, districts may apply for program funds to pay stipends to trained mentor teachers of interns during the mentored internship. The per intern amount of mentor stipend shall not exceed five hundred dollars.

Sec. 817 RCW 28A.660.040 and 2004 c 23 s 4 are each amended to read as follows:

Partnership grants funded under this chapter shall operate one to four specific route programs. Successful completion of the program shall make a candidate eligible for residency teacher certification. For route one and two candidates, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the higher education teacher preparation program must both agree that the teacher candidate has successfully completed the program. For route three and four candidates, the mentor of the teacher candidate shall make the determination that the candidate has successfully completed the program.

(1) Partnership grant programs seeking funds to operate route one programs shall enroll currently employed classified instructional employees with transferable associate degrees seeking residency teacher certification with endorsements in special education, bilingual education, or English as a second language. It is anticipated that candidates enrolled in this route will complete both their baccalaureate degree and requirements for residency certification in two years or less, including a mentored internship to be completed in the final year. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including three years of successful student interaction and leadership as a classified instructional employee;

(b) Successful passage of the statewide basic skills exam, when available; and

(c) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers.

(2) Partnership grant programs seeking funds to operate route two programs shall enroll currently employed classified staff with baccalaureate degrees seeking residency teacher certification in subject matter shortage areas and areas with shortages due to geographic location. Candidates enrolled in this route must complete a mentored internship complemented by flexibly scheduled training and coursework offered at a local site, such as a school or educational service district, or online or via video-conference over the K-20 network, in collaboration with the partnership program's higher education partner. In addition, partnership grant programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including three years of successful student interaction and leadership as classified staff;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's college or university grade point average may be considered as a selection factor;

(c) Successful completion of the content test, once the state content test is available;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of the statewide basic skills exam, when available.

(3) Partnership grant programs seeking funds to operate route three programs shall enroll individuals with baccalaureate degrees, who are not employed in the district at the time of application. When selecting candidates for certification through route three, districts shall give priority to individuals who are seeking residency teacher certification in subject matter shortage areas or shortages due to geographic locations. For route three only, the districts may include additional candidates in nonshortage subject areas if the candidates are seeking endorsements with a secondary grade level designation as defined by rule by the ((~~state board of education~~)) professional educator standards board. The districts shall disclose to candidates in nonshortage subject areas available information on the demand in those subject areas. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship, followed, if necessary, by a second summer teaching academy. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) Five years' experience in the work force;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(c) Successful completion of the content test, once the state content test is available;

(d) External validation of qualifications, including

demonstrated successful experience with students or children, such as ((~~references [reference]~~)) reference letters and letters of support from previous employers;

(e) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(f) Successful passage of statewide basic skills exams, when available.

(4) Partnership grant programs seeking funds to operate route four programs shall enroll individuals with baccalaureate degrees, who are employed in the district at the time of application, or who hold conditional teaching certificates or emergency substitute certificates. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) Five years' experience in the work force;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(c) Successful completion of the content test, once the state content test is available;

(d) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(e) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(f) Successful passage of statewide basic skills exams, when available.

Sec. 818 RCW 28A.690.020 and 1990 c 33 s 546 are each amended to read as follows:

The "designated state official" for this state under Article II of RCW 28A.690.010 shall be the superintendent of public instruction, who shall be the compact administrator and who shall have power to ((~~promulgate~~)) adopt rules to carry out the terms of this compact. The superintendent of public instruction shall enter into contracts pursuant to Article III of the Agreement only with the approval of the specific text thereof by the ((~~state board of education~~)) professional educator standards board.

Sec. 819 RCW 28A.300.050 and 1990 c 33 s 252 are each amended to read as follows:

The superintendent of public instruction shall provide technical assistance to the ((~~state board of education~~)) professional educator standards board in the conduct of the activities described in ((~~sections 202 through 232 of this act~~)) RCW 28A.410.040 and 28A.410.050.

Sec. 820 RCW 28A.625.370 and 1990 1st ex.s. c 10 s 3 are each amended to read as follows:

The award for the teacher educator shall include:

(1) A certificate presented to the teacher educator by the governor, the ((~~president of the state board of education~~)) chair of the professional educator standards board, and the superintendent of public instruction at a public ceremony; and

(2) A grant to the professional education advisory board of the institution from which the teacher educator is selected, which grant shall not exceed two thousand five hundred dollars and which grant shall be awarded under RCW 28A.625.390.

Sec. 821 RCW 28A.625.380 and 1990 1st ex.s. c 10 s 4 are each amended to read as follows:

The ((~~state board of education~~)) professional educator standards board shall adopt rules under chapter 34.05 RCW to carry out the purposes of RCW 28A.625.360 through 28A.625.390. These rules shall include establishing the selection criteria for the Washington award for excellence in teacher preparation. The ((~~state~~)) board ((~~of education~~)) is encouraged to consult with teacher educators, deans, and professional education advisory board members in developing the selection criteria. The criteria shall include any role performed by nominees relative to implementing innovative developments by the nominee's teacher preparation program and efforts the nominee has made to assist in communicating with legislators, common school teachers and administrators, and others about the nominee's teacher preparation program.

Sec. 822 RCW 28A.625.390 and 1990 1st ex.s. c 10 s 5 are each amended to read as follows:

The professional education advisory board for the institution from which the teacher educator has been selected to receive an award shall be eligible to apply for an educational grant as provided under RCW 28A.625.370. The ((~~state board of education~~)) professional educator standards board shall award the grant after the ((~~state~~)) board has approved the grant application as long as the written grant application is submitted to the ((~~state~~)) board within one year after the award is received by the teacher educator. The grant application shall identify the educational purpose toward which the grant shall be used.

Sec. 823 RCW 28B.10.710 and 1993 c 77 s 1 are each amended to read as follows:

There shall be a one quarter or semester course in either Washington state history and government, or Pacific Northwest history and government in the curriculum of all teachers' colleges and teachers' courses in all institutions of higher education. No person shall be graduated from any of said schools without completing said course of study, unless otherwise determined by the ((~~state board of education~~)) Washington professional educator standards board. Any course in Washington state or Pacific Northwest history and government used to fulfill this requirement shall include information on the culture, history, and government of the American Indian peoples who were the first human inhabitants of the state and the region.

Sec. 824 RCW 28B.35.120 and 2004 c 275 s 54 are each amended to read as follows:

In addition to any other powers and duties prescribed by law, each board of trustees of the respective regional universities:

(1) Shall have full control of the regional university and its property of various kinds, except as otherwise provided by law.

(2) Shall employ the president of the regional university, his assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the regional university, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: PROVIDED, That the ((~~state~~)) Washington professional educator standards board ((~~of education~~)) shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) Establish such divisions, schools or departments necessary to carry out the purposes of the regional university and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determined by the board to be necessary for the regional university.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the regional university.

(8) May establish, lease, operate, equip and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, to enter into such contracts as the trustees deem essential to regional university purposes.

(10) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from whatsoever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the regional university programs; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

(11) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.76.230, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off-campus educational programs, and purchase or lease major off-campus facilities.

(12) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the regional university.

Sec. 825 RCW 28B.40.120 and 2004 c 275 s 56 are each amended to read as follows:

In addition to any other powers and duties prescribed by law, the board of trustees of The Evergreen State College:

(1) Shall have full control of the state college and its property of various kinds, except as otherwise provided by law.

(2) Shall employ the president of the state college, his assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the state college, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: PROVIDED, That the ((~~state board of education~~)) Washington professional educator standards board shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) Establish such divisions, schools or departments necessary to carry out the purposes of the college and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determied by the board to be necessary for the college.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the college.

(8) May establish, lease, operate, equip and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, to enter into such contracts as the trustees deem essential to college purposes.

(10) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from whatsoever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the college programs; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

(11) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.76.230, offer new degree programs, offer off-campus programs, participate in consortia or centers, contract for off- campus educational programs, and purchase or lease major off-campus facilities.

(12) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the college.

Sec. 826 RCW 43.43.832 and 2005 c 421 s 2 are each amended to read as follows:

(1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol identification and criminal history section shall disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant's record for convictions as defined in chapter 10.97 RCW.

(2) The legislature also finds that the ((~~state board of education~~)) Washington professional educator standards board may request of the Washington state patrol criminal identification system information regarding a certificate applicant's record for convictions under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the secretary of the department of social and health services must establish rules and set standards to require specific action when considering the information listed in subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or

facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers are paid by the state or providers are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(5) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees.

(6)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(g) For the purposes of this subsection, "health care facility" means a nursing home licensed under chapter 18.51 RCW, a boarding home licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(7) If a federal bureau of investigation check is required in addition to the state background check by the department of social and health services, an applicant who is not disqualified based on the results of the state background check shall be eligible for a one hundred twenty day provisional approval to hire, pending the outcome of the federal bureau of investigation check. The department may extend the provisional approval until receipt of the federal bureau of investigation check. If the federal bureau of investigation check disqualifies an applicant, the department shall notify the requestor that the provisional approval to hire is withdrawn and the applicant may be terminated.

Sec. 827 RCW 43.43.840 and 2005 c 421 s 6 are each amended to read as follows:

When a business or an organization terminates, fires, dismisses, fails to renew the contract, or permits the resignation of an employee because of crimes against children or other persons or because of crimes relating to the financial exploitation of a vulnerable adult, and if that employee is employed in a position requiring a certificate or license issued by a licensing agency such as the ((~~state board of education~~)) Washington professional educator standards board, the business or organization shall notify the licensing agency of such termination of employment.

Sec. 828 RCW 43.43.845 and 2005 c 421 s 7 and 2005 c 237 s 1 are each reenacted and amended to read as follows:

(1) Upon a guilty plea or conviction of a person of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW, promoting prostitution of a minor under chapter 9A.88 RCW, or the sale or purchase of a minor child under RCW 9A.64.030, the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives information that a person has pled guilty to or been convicted of one of the felony crimes under subsection (1) of this section, the state patrol shall transmit that information to the superintendent of public instruction. It shall be the duty of the superintendent of public instruction to identify whether the person holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district, and provide this information to the ((~~state board of education~~)) Washington professional educator standards board and the school district employing the individual who pled guilty or was convicted of the crimes identified in subsection (1) of this section.

Sec. 829 RCW 72.40.028 and 1985 c 378 s 18 are each amended to read as follows:

All teachers at the state school for the deaf and the state school for the blind shall meet all certification requirements and the programs shall meet all accreditation requirements and conform to the standards defined by law or by rule of the ((~~state board of education~~))Washington professional educator standards board or the office of the state superintendent of public instruction. The superintendents, by rule, may adopt additional educational standards for their respective schools. Salaries of all certificated employees shall be set so as to conform to and be contemporary with salaries paid to other certificated employees of similar background and experience in the school district in which the program or facility is located. The superintendents

may provide for provisional certification for teachers in their respective schools including certification for emergency, temporary, substitute, or provisional duty.

PART 9
OTHER DUTIES

Sec. 901 RCW 28A.600.010 and 1997 c 265 s 4 are each amended to read as follows:

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Enforce the rules prescribed by the superintendent of public instruction ((~~and the state board of education~~)) for the government of schools, pupils, and certificated employees.

(2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules regarding pupil conduct, discipline, and rights, including but not limited to short-term suspensions as referred to in RCW 28A.305.160 (as recodified by this act) and suspensions in excess of ten consecutive days. Such rules shall not be inconsistent with any of the following: Federal statutes and regulations, state statutes, common law, and the rules of the superintendent of public instruction((~~, and the state board of education~~)). The board's rules shall include such substantive and procedural due process guarantees as prescribed by the ((~~state board of education~~)) superintendent of public instruction under RCW 28A.305.160(as recodified by this act). ((~~Commencing with the 1976-77 school year,~~)) When such rules are made available to each pupil, teacher, and parent, they shall be accompanied by a detailed description of rights, responsibilities, and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, thesuperintendent of public instruction, ((~~and state board of education rules~~)) and the rules ((~~and regulations~~)) of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

(3) Suspend, expel, or discipline pupils in accordance with RCW 28A.305.160 (as recodified by this act).

NEW SECTION. **Sec. 902** A new section is added to chapter 28A.405 RCW to read as follows:

Each school district board of directors shall adopt a policy regarding the presence at their respective schools of teachers and other certificated personnel before the opening of school in the morning and after the closing of school in the afternoon or evening. The board of directors shall make the policy available to parents and the public through the school district report card and other means of communication.

Sec. 903 RCW 28A.225.280 and 1990 1st ex.s. c 9 s 206 are each amended to read as follows:

Eligibility of transfer students under RCW 28A.225.220 and 28A.225.225 for participation in extracurricular activities shall be subject to rules adopted by the Washington interscholastic activities association ((~~as authorized by the state board of education~~)).

Sec. 904 RCW 28A.600.200 and 1990 c 33 s 502 are each amended to read as follows:

Each school district board of directors is hereby granted and shall exercise the authority to control, supervise and regulate the conduct of interschool athletic activities and other interschool extracurricular activities of an athletic, cultural, social or recreational nature for students of the district. A board of directors may delegate control, supervision and regulation of any such activity to the Washington interscholastic activities association or any other voluntary nonprofit entity and compensate such entity for services provided, subject to the following conditions:

(1) ((~~The voluntary nonprofit entity shall submit an annual report to the state board of education of student appeal determinations, assets, and financial receipts and disbursements at such time and in such detail as the state board shall establish by rule;~~

~~(2)~~)) The voluntary nonprofit entity shall not discriminate in connection with employment or membership upon its governing board, or otherwise in connection with any function it performs, on the basis of race, creed, national origin, sex or marital status;

((~~(3)~~)) (2) Any rules and policies applied by the voluntary nonprofit entity which govern student participation in any interschool activity shall be written ((~~and subject to the annual review and approval of the state board of education at such time as it shall establish;~~

~~(4) All amendments and repeals of such rules and policies shall be subject to the review and approval of the state board~~)); ((~~and~~

~~(5)~~)) (3) Such rules and policies shall provide for notice of the reasons and a fair opportunity to contest such reasons prior to a final determination to reject a student's request to participate in or to continue in an interschool activity. Any such decision shall be considered a decision of the school district conducting the activity in which the student seeks to participate or was participating and may be appealed pursuant to RCW 28A.645.010 through 28A.645.030; and

(4) Beginning the effective date of this section and until July 1, 2007, that any decision by the Washington interscholastic activities association may be appealed to the office of the superintendent of public instruction. After July 1, 2007, decisions by the Washington interscholastic activities association addressing only academic issues may be appealed to the office of the superintendent of public instruction. The office of the superintendent shall adopt rules to implement this subsection.

NEW SECTION. **Sec. 905** A new section is added to chapter 28A.600 RCW to read as follows:

By July 1, 2007, the Washington interscholastic activities association shall establish a nine-person appeals board to address nonacademic appeals. The board shall be comprised of active members of school district boards of directors, and retired or inactive coaches. The retired or inactive coaches shall be representative of the multilevels of competition, the various school classifications, and the activity districts of the Washington interscholastic activities association. The board shall begin hearing nonacademic appeals by July 1, 2007. No board member may participate in the appeal process if the member was involved in the activity that was the basis of the appeal or involved in the decision of the association, either directly or indirectly.

Sec. 906 RCW 28A.160.210 and 1989 c 178 s 20 are each amended to read as follows:

In addition to other powers and duties, the ((~~state board of education~~)) superintendent of public instruction shall adopt rules ((~~and regulations~~)) governing the training and qualifications of school bus drivers. Such rules ((~~and regulations~~)) shall be designed to insure that persons will not be employed to operate school buses unless they possess such physical health and driving skills as are necessary to safely operate school buses: PROVIDED, That such rules ((~~and regulations~~)) shall insure that school bus drivers are provided a due process hearing before any certification required by such rules ((~~and regulations~~)) is cancelled: PROVIDED FURTHER, That such rules ((~~and regulations~~)) shall not conflict with the authority of

the department of licensing to license school bus drivers in accordance with chapter 46.25 RCW. The ((~~state board of education~~)) superintendent of public instruction may obtain a copy of the driving record, as maintained by the department of licensing, for consideration when evaluating a school bus driver's driving skills.

Sec. 907 RCW 28A.160.100 and 1990 c 33 s 138 are each amended to read as follows:

In addition to the authority otherwise provided in RCW 28A.160.010 through 28A.160.120 to school districts for the transportation of persons, whether school children, school personnel, or otherwise, any school district authorized to use school buses and drivers hired by the district for the transportation of school children to and from a school activity, along with such school employees as necessary for their supervision, shall, if such school activity be an interscholastic activity, be authorized to transport members of the general public to such event and utilize the school district's buses, transportation equipment and facilities, and employees therefor: PROVIDED, That provision shall be made for the reimbursement and payment to the school district by such members of the general public of not less than the district's actual costs and the reasonable value of the use of the district's buses and facilities provided in connection with such transportation: PROVIDED FURTHER, That wherever private transportation certified or licensed by the utilities and transportation commission or public transportation is reasonably available ((~~as determined by rule and regulation of the state board of education~~)), this section shall not apply.

Sec. 908 RCW 28A.210.070 and 1990 c 33 s 191 are each amended to read as follows:

As used in RCW 28A.210.060 through 28A.210.170:

(1) "Chief administrator" shall mean the person with the authority and responsibility for the immediate supervision of the operation of a school or day care center as defined in this section or, in the alternative, such other person as may hereafter be designated in writing for the purposes of RCW 28A.210.060 through 28A.210.170 by the statutory or corporate board of directors of the school district, school, or day care center or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district, school or day care center.

(2) "Full immunization" shall mean immunization against certain vaccine-preventable diseases in accordance with schedules and with immunizing agents approved by the state board of health.

(3) "Local health department" shall mean the city, town, county, district or combined city-conty health department, board of health, or health officer which provides public health services.

(4) "School" shall mean and include each building, facility, and location at or within which any or all portions of a preschool, kindergarten and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW 28A.305.130(((~~6~~))), 28A.195.010 through 28A.195.050, and 28A.410.120.

(5) "Day care center" shall mean an agency which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours and is licensed pursuant to chapter 74.15 RCW.

(6) "Child" shall mean any person, regardless of age, in attendance at a public or private school or a licensed day care center.

Sec. 909 RCW 28A.210.120 and 1990 c 33 s 196 are each amended to read as follows:

It shall be the duty of the chief administrator of every public and private school and day care center to prohibit the further presence at the school or day care center for any and all purposes of each child for whom proof of immunization, certification of exemption, or proof of compliance with an approved schedule of immunization has not been provided in accordance with RCW 28A.210.080 and to continue to prohibit the child's presence until such proof of immunization, certification of exemption, or approved schedule has been provided. The exclusion of a child from a school shall be accomplished in accordance with rules of the office of the superintendent, in consultation with the state board of ((~~education~~)) health. The exclusion of a child from a day care center shall be accomplished in accordance with rules of the department of social and health services. Prior to the exclusion of a child, each school or day care center shall provide written notice to the parent(s) or legal guardian(s) of each child or to the adult(s) in loco parentis to each child, who is not in compliance with the requirements of RCW 28A.210.080. The notice shall fully inform such person(s) of the following: (1) The requirements established by and pursuant to RCW 28A.210.060 through 28A.210.170; (2) the fact that the child will be prohibited from further attendance at the school unless RCW 28A.210.080 is complied with; (3) such procedural due process rights as are hereafter established pursuant to RCW 28A.210.160 and/or 28A.210.170, as appropriate; and (4) the immunization services that are available from or through the local health department and other public agencies.

Sec. 910 RCW 28A.210.160 and 1990 c 33 s 199 are each amended to read as follows:

The superintendent of public instruction with regard to public schools and the state board of education with regard to private schools, in consultation with the state board of ((~~education~~)) health,shall ((~~and is hereby empowered to~~)) each adopt rules pursuant to chapter 34.05 RCW ((~~which~~)) that establish the procedural and substantive due process requirements governing the exclusion of children from ((~~public and private~~)) schools pursuant to RCW 28A.210.120.

Sec. 911 RCW 28A.210.320 and 2002 c 101 s 1 are each amended to read as follows:

(1) The attendance of every child at every public school in the state shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school of a medication or treatment order addressing any life-threatening health condition that the child has that may require medical services to be performed at the school. Once such an order has been presented, the child shall be allowed to attend school.

(2) The chief administrator of every public school shall prohibit the further presence at the school for any and all purposes of each child for whom a medication or treatment order has not been provided in accordance with this section if the child has a life-threatening health condition that may require medical services to be performed at the school and shall continue to prohibit the child's presence until such order has been provided. The exclusion of a child from a school shall be accomplished in accordance with rules of the state board of education. Before excluding a child, each school shall provide written notice to the parents or legal guardians of each child or to the adults in loco parentis to each child, who is not in compliance with the requirements of this section. The notice shall include, but not be limited to, the following: (a) The requirements established by this section; (b) the fact that the

child will be prohibited from further attendance at the school unless this section is complied with; and (c) such procedural due process rights as are established pursuant to this section.

(3) The ((~~state board of education~~)) superintendent of public instruction in consultation with the state board of health shall adopt rules under chapter 34.05 RCW that establish the procedural and substantive due process requirements governing the exclusion of children from public schools under this section. The rules shall include any requirements under applicable federal laws.

(4) As used in this section, "life-threatening condition" means a health condition that will put the child in danger of death during the school day if a medication or treatment order and a nursing plan are not in place.

(5) As used in this section, "medication or treatment order" means the authority a registered nurse obtains under RCW 18.79.260(2).

Sec. 912 RCW 28A.335.100 and 1975-'76 2nd ex.s. c 23 s 1 are each amended to read as follows:

Any association established by school districts pursuant to the interlocal cooperation act, chapter 39.34 RCW for the purpose of jointly and cooperatively purchasing school supplies, materials and equipment, if otherwise authorized for school district purposes to purchase personal or real property, is ((~~hereby~~)) authorized((~~, subject to rules and regulations of the state board of education,~~)) to mortgage, or convey a purchase money security interest in real or personal property of such association of every kind, character or description whatsoever, or any interest in such personal or real property: PROVIDED, That any such association shall be prohibited from causing any creditor of the association to acquire any rights against the property, properties or assets of any of its constituent school districts and any creditor of such association shall be entitled to look for payment of any obligation incurred by such association solely to the assets and properties of such association.

Sec. 913 RCW 28A.335.120 and 2001 c 183 s 2 are each amended to read as follows:

(1) The board of directors of any school district of this state may:

(a) Sell for cash, at public or private sale, and convey by deed all interest of the district in or to any of the real property of the district which is no longer required for school purposes; and

(b) Purchase real property for the purpose of locating thereon and affixing thereto any house or houses and appurtenant buildings removed from school sites owned by the district and sell for cash, at public or private sale, and convey by deed all interest of the district in or to such acquired and improved real property.

(2) When the board of directors of any school district proposes a sale of school district real property pursuant to this section and the value of the property exceeds seventy thousand dollars, the board shall publish a notice of its intention to sell the property. The notice shall be published at least once each week during two consecutive weeks in a legal newspaper with a general circulation in the area in which the school district is located. The notice shall describe the property to be sold and designate the place where and the day and hour when a hearing will be held. The board shall hold a public hearing upon the proposal to dispose of the school district property at the place and the day and hour fixed in the notice and admit evidence offered for and against the propriety and advisability of the proposed sale.

(3) The board of directors of any school district desiring to sell surplus real property shall publish a notice in a newspaper of general circulation in the school district. School districts shall not sell the property for at least forty-five days following the publication of the newspaper notice.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the purchase of surplus real property and to have such bids considered along with all other bids.

(5) Any sale of school district real property authorized pursuant to this section shall be preceded by a market value appraisal by a professionally designated real estate appraiser as defined in RCW 74.46.020 or a general real estate appraiser certified under chapter 18.140 RCW selected by the board of directors and no sale shall take place if the sale price would be less than ninety percent of the appraisal made by the real estate appraiser: PROVIDED, That if the property has been on the market for one year or more the property may be reappraised and sold for not less than seventy-five percent of the reappraised value with the unanimous consent of the board.

(6) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded: PROVIDED, That the use of a licensed real estate broker will not eliminate the obligation of the board of directors to provide the notice described in this section: PROVIDED FURTHER, That the fee or commissions charged for any broker services shall not exceed seven percent of the resulting sale value for a single parcel: PROVIDED FURTHER, That any professionally designated real estate appraiser as defined in RCW 74.46.020 or a general real estate appraiser certified under chapter 18.140 RCW selected by the board to appraise the market value of a parcel of property to be sold may not be a party to any contract with the school district to sell such parcel of property for a period of three years after the appraisal.

(7) If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through sale on contract terms, a real estate sales contract may be executed between the district and buyer((~~: PROVIDED, That the terms and conditions of any such sales contract must comply with rules and regulations of the state board of education, herein authorized, governing school district real property contract sales~~)).

Sec. 914 RCW 28A.320.240 and 1969 ex.s. c 223 s 28A.58.104 are each amended to read as follows:

(1) The purpose of this section is to identify quality criteria for school library media programs that support the student learning goals under RCW 28A.150.210, the essential academic learning requirements under RCW 28A.655.070, and high school graduation requirements adopted under RCW 28A.230.090.

(2) Every board of directors shall provide for the operation and stocking of such libraries as the board deems necessary for the proper education of the district's students or as otherwise required by law or rule ((~~or regulation~~)) of the superintendent of public instruction ((~~or the state board of education~~)).

(3) "Teacher-librarian" means a certified teacher with a library media endorsement under rules adopted by the professional educator standards board.

(4) "School-library media program" means a school-based program that is staffed by a certificated teacher-librarian and provides a variety of resources that support student mastery of the essential academic learning requirements in all subject areas and the implementation of the district's school improvement plan.

(5) The teacher-librarian, through the school-library media program, shall collaborate as an instructional partner to help all students meet the content goals in all subject areas, and assist high school students completing the culminating project and high school and beyond plans required for graduation.

Sec. 915 RCW 28A.155.060 and 1995 c 77 s 12 are each amended to read as follows:

For the purpose of carrying out the provisions of RCW 28A.155.020 through 28A.155.050, the board of directors of every school district shall be authorized to contract with agencies approved by the ((~~state board of education~~)) superintendent of public instruction for operating special education programs for students with disabilities. Approval standards for such agencies shall conform substantially with those promulgated for approval of special education aid programs in the common schools.

Sec. 916 RCW 28A.600.130 and 1995 1st sp.s. c 5 s 1 are each amended to read as follows:

The higher education coordinating board shall establish a planning committee to develop criteria for screening and selection of the Washington scholars each year in accordance with RCW 28A.600.110(1). It is the intent that these criteria shall emphasize scholastic achievement but not exclude such criteria as leadership ability and community contribution in final selection procedures. The Washington scholars planning committee shall have members from selected state agencies and private organizations having an interest and responsibility in education, including but not limited to, the ((~~state board of education, the~~)) office of superintendent of public instruction, the council of presidents, the state board for community and technical colleges, and the Washington friends of higher education.

Sec. 917 RCW 28A.650.015 and 1995 c 335 s 507 are each amended to read as follows:

(1) The superintendent of public instruction, to the extent funds are appropriated, shall develop and implement a Washington state K-12 education technology plan. The technology plan shall be updated on at least a biennial basis, shall be developed to coordinate and expand the use of education technology in the common schools of the state. The plan shall be consistent with aplicable provisions of chapter 43.105 RCW. The plan, at a minimum, shall address:

(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;

(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of on-line information; and

(c) Methods to equitably increase the use of education technology by students and school personnel throughout the state.

(2) The superintendent of public instruction shall appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The ((~~state board of education, the commission on student learning, the~~)) department of information services, educational service districts, school directors, school administrators, school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, the higher education coordinating board, the work force training and education coordinating board, and the state library.

PART 10
MISCELLANEOUS

NEW SECTION. **Sec. 1001** Part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 1002** Section 407 of this act takes effect September 1, 2009."

Senator McAuliffe spoke in favor of adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator McAuliffe on page 99, line 30 to the committee striking amendment to Engrossed Second Substitute House Bill No. 3098.

The motion by Senator McAuliffe carried and the amendment to the committee striking amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Early Learning, K-12 & Higher Education as amended to Engrossed Second Substitute House Bill No. 3098.

The motion by Senator McAuliffe carried and the committee striking amendment as amended was adopted by voice vote.

MOTION

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

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28A.305.130, 28A.305.035, 28A.300.040, 28A.305.011, 28A.150.230, 28A.505.140, 28A.525.020, 28A.525.030, 28A.525.050, 28A.525.055, 28A.525.070, 28A.525.080, 28A.525.090, 28A.525.162, 28A.525.164, 28A.525.166, 28A.525.168, 28A.525.170, 28A.525.172, 28A.525.174, 28A.525.176, 28A.525.178, 28A.525.180, 28A.525.190, 28A.525.200, 28A.525.216, 28A.150.260, 28A.335.160, 28A.540.050, 28A.150.530, 28A.335.210, 28A.335.230, 28A.540.070, 39.35D.020, 39.35D.040, 39.35D.060, 79.17.100, 79.17.120, 28A.305.220, 28A.230.100, 28A.230.170, 28A.305.170, 28A.230.130, 28A.205.010, 28A.205.070, 28A.215.010, 28A.215.020, 28A.205.040, 28A.215.140, 28A.230.020, 28A.230.040, 28A.230.050, 28A.315.175, 28A.315.195, 28A.315.205, 28A.315.015, 28A.315.025, 28A.315.055, 28A.315.085, 28A.315.125, 28A.315.185, 28A.305.210, 28A.310.080, 28A.310.030, 28A.310.050, 28A.310.060, 28A.310.090, 28A.310.100, 28A.310.140, 28A.310.150, 28A.310.200, 28A.310.310, 28A.323.020, 28A.323.040, 29A.24.070, 84.09.037, 28A.305.160, 28A.150.300, 28A.225.160, 28A.300.150, 28A.600.020, 28A.600.030, 18.35.020, 18.35.195, 18.83.200, 28A.625.360, 28A.225.330, 28A.405.110, 28A.415.010, 28A.415.020, 28A.415.024, 28A.415.025, 28A.415.105, 28A.415.125, 28A.415.130, 28A.415.145, 28A.660.020, 28A.660.040, 28A.690.020, 28A.300.050, 28A.625.370, 28A.625.380, 28A.625.390, 28B.10.710, 28B.35.120, 28B.40.120, 43.43.832, 43.43.840, 72.40.028, 28A.600.010, 28A.225.280, 28A.600.200, 28A.160.210, 28A.160.100, 28A.210.070, 28A.210.120, 28A.210.160, 28A.210.320, 28A.335.100, 28A.335.120, 28A.320.240, 28A.155.060, 28A.600.130, and 28A.650.015; reenacting and amending RCW 28A.330.100, 28A.630.400, and 43.43.845; adding a new section to chapter 28A.525 RCW; adding a new section to chapter 28A.545 RCW; adding a new section to chapter 28A.230 RCW; adding new sections to chapter 28A.300 RCW; adding new sections to chapter 28A.600 RCW; adding a new section to chapter 28A.405 RCW; creating

new sections; recodifying RCW 28A.305.220, 28A.305.170, and 28A.305.160; decodifying RCW 28A.525.120, 28A.525.122, 28A.525.124, 28A.525.126, 28A.525.128, 28A.525.130, 28A.525.132, 28A.525.134, 28A.525.140, 28A.525.142, 28A.525.144, 28A.525.146, 28A.525.148, 28A.525.150, 28A.525.152, 28A.525.154, 28A.525.156, 28A.525.158, 28A.525.160, and 28A.525.182; providing an effective date; and providing expiration dates."

MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Second Substitute House Bill No. 3098 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator McAuliffe spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 3098 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 3098 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 36; Nays, 11; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Fairley, Franklin, Fraser, Hargrove, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 36

Voting nay: Senators Benson, Carrell, Esser, Finkbeiner, Hewitt, Honeyford, Johnson, McCaslin, Mulliken, Oke and Zarelli - 11

Excused: Senators Haugen and Parlette - 2

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3098 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2006

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1841 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate recede from its position on the Senate amendment(s) to Substitute House Bill No. 1841.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kohl-Welles that the Senate recede from its position on the Senate amendment(s) to Substitute House Bill No. 1841.

The motion by Senator Kohl-Welles carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 1841 by voice vote.

MOTION

On motion of Senator Kohl-Welles, the rules were suspended and Substitute House Bill No. 1841 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1841, by House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Kenney, Conway, Strow, Sells, Simpson, Hasegawa and Santos)

Revising provisions for electrical trainees.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.28.041 and 2002 c 249 s 2 are each amended to read as follows:

(1) It is unlawful for any person, firm, partnership, corporation, or other entity to advertise, offer to do work, submit a bid, engage in, conduct, or carry on the business of installing or maintaining wires or equipment to convey electric current, or installing or maintaining equipment to be operated by electric current as it pertains to the electrical industry, without having an unrevoked, unsuspended, and unexpired electrical contractor license, issued by the department in accordance with this chapter. All electrical contractor licenses expire twenty-four calendar months following the day of their issue. The department may issue an electrical contractors license for a period of less than twenty-four months only for the purpose of equalizing the number of electrical contractor licenses that expire each month. Application for an electrical contractor license shall be made in writing to the department, accompanied by the required fee. The application shall state:

(a) The name and address of the applicant; in case of firms or partnerships, the names of the individuals composing the firm or partnership; in case of corporations, the names of the managing officials thereof;

(b) The location of the place of business of the applicant and the name under which the business is conducted;

(c) Employer social security number;

(d) Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:

(i) The applicant's industrial insurance account number issued by the department;

(ii) The applicant's self-insurer number issued by the department; or

(iii) For applicants domiciled in a state or province of Canada subject to an agreement entered into under RCW 51.12.120(7), as permitted by the agreement, filing a certificate of coverage issued by the agency that administers the workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law;

(e) Employment security department number;

(f) State excise tax registration number;

(g) Unified business identifier (UBI) account number may be substituted for the information required by (d) of this subsection if the applicant will not employ employees in Washington, and by (e) and (f) of this subsection; and

(h) Whether a general or specialty electrical contractor license is sought and, if the latter, the type of specialty. Electrical contractor specialties include, but are not limited to: Residential, pump and irrigation, limited energy system, signs, nonresidential maintenance, restricted nonresidential maintenance, appliance repair, and a combination specialty. A general electrical contractor license shall grant to the holder the right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electric current, and installing or maintaining equipment, or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current, in the state of Washington. A specialty electrical contractor license shall grant to the holder a limited right to engage in, conduct, or carry on the business of installing or maintaining wires or equipment to carry electrical current, and installing or maintaining equipment; or installing or maintaining material to fasten or insulate such wires or equipment to be operated by electric current in the state of Washington as expressly allowed by the license.

(2) The department may verify the workers' compensation coverage information provided by the applicant under subsection (1)(d) of this section, including but not limited to information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(3) The application for an electrical contractor license shall be accompanied by a bond in the sum of four thousand dollars with the state of Washington named as obligee in the bond, with good and sufficient surety, to be approved by the department. The bond shall at all times be kept in full force and effect, and any cancellation or revocation thereof, or withdrawal of the surety therefrom, suspends the license issued to the principal until a new bond has been filed and approved as provided in this section. Upon approval of a bond, the department shall on the next business day deposit the fee accompanying the application in the electrical license fund and shall file the bond in the office. The department shall upon request furnish to any person, firm, partnership, corporation, or other entity a certified copy of the bond upon the payment of a fee that the department shall set by rule. The fee shall cover but not exceed the cost of furnishing the certified copy. The bond shall be conditioned that in any installation or maintenance of wires or equipment to convey electrical current, and equipment to be operated by electrical current, the principal will comply with the provisions of this chapter and with any electrical ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(3) that is in effect at the time of entering into a contract. The bond shall be conditioned further that the principal will pay for all labor, including employee benefits, and material furnished or used upon the work, taxes and contributions to the state of Washington, and all damages that may be sustained by any person, firm, partnership, corporation, or other entity due to a failure of the principal to make the installation or maintenance in accordance with this chapter or any applicable ordinance, building code, or regulation of a city or town adopted pursuant to RCW 19.28.010(3). In lieu of the surety bond required by this section the license applicant may file with the department a cash deposit or other negotiable security acceptable to the department. If the license applicant has filed a cash deposit, the department shall deposit the funds in a special trust savings account in a commercial bank, mutual savings bank, or savings and loan association and shall pay annually to the depositor the interest derived from the account.

(4) The department shall issue general or specialty electrical contractor licenses to applicants meeting all of the requirements of this chapter. The provisions of this chapter relating to the licensing of any person, firm, partnership, corporation, or other entity including the requirement of a bond with the state of Washington named as obligee therein and the collection of a fee therefor, are exclusive, and no political subdivision of the state of Washington may require or issue any licenses or bonds or charge any fee for the same or a similar purpose. No person, firm, partnership, corporation, or other entity holding more than one specialty contractor license under this chapter may be required to pay an annual fee for more than one such license or to post more than one four thousand dollar bond, equivalent cash deposit, or other negotiable security.

(5) To obtain a general or specialty electrical contractor license the applicant must designate an individual who currently possesses a valid master journeyman electrician's certificate of competency, master specialty electrician's certificate of competency in the specialty for which application has been made, or administrator's certificate as a general electrical contractor administrator or as a specialty electrical contractor administrator in the specialty for which application has been made.

(6) Administrator certificate specialties include but are not limited to: Residential, pump and irrigation, limited energy system, signs, nonresidential maintenance, restricted nonresidential maintenance, appliance repair, and combination specialty. To obtain an administrator's certificate an individual must pass an examination as set forth in RCW 19.28.051 unless the applicant was a licensed electrical contractor at any time during 1974. Applicants who were electrical contractors licensed by the state of Washington at any time during 1974 are entitled to receive a general electrical contractor administrator's certificate without examination if the applicants apply prior to January 1, 1984. The board of electrical examiners shall certify to the department the names of all persons who are entitled to either a general or specialty electrical contractor administrator's certificate.

Sec. 2. RCW 19.28.161 and 2002 c 249 s 4 are each amended to read as follows:

(1) No person may engage in the electrical construction trade without having a valid master journeyman electrician certificate of competency, journeyman electrician certificate of competency, master specialty electrician certificate of competency, or specialty electrician certificate of competency issued by the department in accordance with this chapter. Electrician certificate of competency specialties include, but are not limited to: Residential, pump and irrigation, limited energy system, signs, nonresidential maintenance, restricted nonresidential maintenance, and appliance repair.

(2) A person who is indentured in an apprenticeship program approved under chapter 49.04 RCW for the electrical construction trade or who is learning the electrical construction trade may work in the electrical construction trade if supervised by a certified master journeyman electrician, journeyman electrician, master specialty electrician in that electrician's specialty, or specialty electrician in that electrician's specialty. All apprentices and individuals learning the electrical construction trade shall obtain an electrical training certificate from the department. The certificate shall authorize the holder to learn the electrical construction trade while under the direct supervision of a master journeyman electrician, journeyman electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. The holder of the electrical training certificate shall renew the certificate biennially. At the time of renewal, the holder shall provide the department with an accurate list of the holder's employers in the electrical construction industry for the previous biennial period and the number of hours worked for each employer, and proof of sixteen hours of approved classroom electrical continuing education courses covering this chapter, the national electrical code, or electrical theory, or the equivalent electrical training courses taken as part of an approved apprenticeship program

under chapter 49.04 RCW or an approved electrical training program under RCW 19.28.191(1)(h). This education requirement is effective July 1, 2007. A biennial fee shall be charged for the issuance or renewal of the certificate. The department shall set the fee by rule. The fee shall cover but not exceed the cost of administering and enforcing the trainee certification and supervision requirements of this chapter. Apprentices and individuals learning the electrical construction trade shall have their electrical training certificates in their possession at all times that they are performing electrical work. They shall show their certificates to an authorized representative of the department at the representative's request.

(3) Any person who has been issued an electrical training certificate under this chapter may work if that person is under supervision. Supervision shall consist of a person being on the same job site and under the control of either a certified master journeyman electrician, journeyman electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty. Either a certified master journeyman electrician, journeyman electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty shall be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day unless otherwise provided in this chapter.

(4) The ratio of noncertified individuals to certified master journeymen electricians, journeymen electricians, master specialty electricians, or specialty electricians on any one job site is as follows:

(a) When working as a specialty electrician, not more than two noncertified individuals for every certified master specialty electrician working in that electrician's specialty, specialty electrician working in that electrician's specialty, master journeyman electrician, or journeyman electrician, except that the ratio requirements are one certified master specialty electrician working in that electrician's specialty, specialty electrician working in that electrician's specialty, master journeyman electrician, or journeyman electrician working as a specialty electrician to no more than four students enrolled in and working as part of an electrical construction program at public community or technical colleges, or not-for-profit nationally accredited trade or technical schools licensed by the work force training and education coordinating board under chapter 28C.10 RCW. In meeting the ratio requirements for students enrolled in an electrical construction program at a trade school, a trade school may receive input and advice from the electrical board; and

(b) When working as a journeyman electrician, not more than one noncertified individual for every certified master journeyman electrician or journeyman electrician, except that the ratio requirements shall be one certified master journeyman electrician or journeyman electrician to no more than four students enrolled in and working as part of an electrical construction program at public community or technical colleges, or not-for-profit nationally accredited trade or technical schools licensed by the work force training and education coordinating board under chapter 28C.10 RCW. In meeting the ratio requirements for students enrolled in an electrical construction program at a trade school, a trade school may receive input and advice from the electrical board.

An individual who has a current training certificate and who has successfully completed or is currently enrolled in an approved apprenticeship program or in an electrical construction program at public community or technical colleges, or not-for-profit nationally accredited technical or trade schools licensed by the work force training and education coordinating board under chapter 28C.10 RCW, may work without direct on-site supervision during the last six months of meeting the practical experience requirements of this chapter.

(5) For the residential (as specified in WAC 296-46A-930(2)(a)), pump and irrigation (as specified in WAC 296-46A-930(2)(b)(i)), sign (as specified in WAC 296-46A-930(2)(c)), limited energy (as specified in WAC 296-46A-930(2)(e)(i)), nonresidential maintenance (as specified in WAC 296-46A-930(2)(f)(i)), restricted nonresidential maintenance as determined by the department in rule, or other new nonresidential specialties, not including appliance repair, as determined by the department in rule, either a master journeyman electrician, journeyman electrician, master specialty electrician working in that electrician's specialty, or specialty electrician working in that electrician's specialty must be on the same job site as the noncertified individual for a minimum of seventy-five percent of each working day. Other specialties must meet the requirements specified in RCW 19.28.191(1)(~~((f)(ii))~~) (g)(ii). When the ratio of certified electricians to noncertified individuals on a job site is one certified electrician to three or four noncertified individuals, the certified electrician must:

(a) Directly supervise and instruct the noncertified individuals and the certified electrician may not directly make or engage in an electrical installation; and

(b) Be on the same job site as the noncertified individual for a minimum of one hundred percent of each working day.

(6) The electrical contractor shall accurately verify and attest to the electrical trainee hours worked by electrical trainees on behalf of the electrical contractor."

Senator Kohl-Welles spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kohl-Welles and Parlette to Substitute House Bill No. 1841.

The motion by Senator Kohl-Welles carried and the striking amendment was adopted by voice vote.

MOTION

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

On page 1, line 1 of the title, after "trainees" strike the remainder of the title and insert "and contractor licenses; and amending RCW 19.28.041 and 19.28.161."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1841 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1841 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1841 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Voting nay: Senator Deccio - 1

Excused: Senator Parlette - 1

SUBSTITUTE HOUSE BILL NO. 1841 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2006

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2481 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Fairley moved that the Senate recede from its position on Substitute House Bill No. 2481 and pass the bill without the Senate amendment(s).

Senator Fairley spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Fairley that the Senate recede from its position on Substitute House Bill No. 2481 and pass the bill without Senate amendment(s).

The motion by Senator Fairley carried and the Senate receded from its position and passed Substitute House Bill No. 2481.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2481, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 45

Voting nay: Senators Honeyford, Mulliken, Stevens and Zarelli - 4

SUBSTITUTE HOUSE BILL NO. 2481, without the Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2006

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2695 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kastama moved that the Senate recede from its position on the Senate amendment(s) to Substitute House Bill No. 2695.

The President declared the question before the Senate to be motion by Senator Kastama that the Senate recede from its position on the Senate amendment(s) to Substitute House Bill No. 2695.

The motion by Senator Kastama carried and the Senate receded from its amendment(s) to Substitute House Bill No. 2695.

MOTION

On motion of Senator Kastama, the rules were suspended and Substitute House Bill No. 2695 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2695, by House Committee on State Government Operations & Accountability (originally sponsored by Representatives Haigh, Sump and McDermott)

Modifying absentee or provisional ballot notice requirements.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 29A.60.165 and 2005 c 243 s 8 are each amended to read as follows:

(1) If the voter neglects to sign the outside envelope of an absentee or provisional ballot, the auditor shall notify the voter by ((~~telephone~~)) first class mail and advise the voter of the correct procedures for completing the unsigned affidavit. ((~~If the auditor is not able to provide the information personally to the voter by telephone, then the voter must be contacted by first class mail and advised of the correct procedures for completing the unsigned affidavit. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter.~~)) If the absentee ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded at least three business days before the final meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information. In order for the ballot to be counted, the voter must either:

(a) Appear in person and sign the envelope no later than the day before the certification of the primary or election; or

(b) Sign a copy of the envelope provided by the auditor, and return it to the auditor no later than the day before the certification of the primary or election.

(2)(a) If the handwriting of the signature on an absentee or provisional ballot envelope is not the same as the handwriting of the signature on the registration file, the auditor shall notify the voter by ((~~telephone~~)) first class mail, enclosing a copy of the envelope affidavit, and advise the voter of the correct procedures for updating his or her signature on the voter registration file. ((~~If the auditor is not able to provide the information personally to the voter by telephone, then the voter~~

~~must be contacted by first class mail and advised of the correct procedures for completing the unsigned affidavit. Leaving a voice mail message for the voter is not to be considered as personally contacting the voter.~~)) If the absentee or provisional ballot is received within three business days of the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded at least three business days before the final meeting of the canvassing board, then the auditor shall attempt to notify the voter by telephone, using the voter registration record information. In order for the ballot to be counted, the voter must either:

(i) Appear in person and sign a new registration form no later than the day before the certification of the primary or election; or

(ii) Sign a copy of the affidavit provided by the auditor and return it to the auditor no later than the day before the certification of the primary or election. The voter may enclose with the affidavit a photocopy of a valid government or tribal issued identification document that includes their current signature. If the signature on the copy of the affidavit does not match the signature on file or the signature on the copy of the identification document, the voter must appear in person and sign a new registration form no later than the day before the certification of the primary or election in order for the ballot to be counted.

(b) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration file because the name is different, the ballot may be counted as long as the handwriting is clearly the same. The auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form.

(c) If the signature on an absentee or provisional ballot envelope is not the same as the signature on the registration file because the voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(3) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

(4) A record must be kept of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter signed the envelope, a copy of the envelope, a new registration form, or a change-of-name form. That record is a public record under chapter 42.17 RCW and may be disclosed to interested parties on written request."

Senators Kastama and Roach spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Roach to Substitute House Bill No. 2695.

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

MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 2695 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2695 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2695 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 40; Nays, 9; Absent, 0; Excused, 0.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Oke, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 40

Voting nay: Senators Esser, Hewitt, Honeyford, Morton, Mulliken, Parlette, Pflug, Schoesler and Zarelli - 9

SUBSTITUTE HOUSE BILL NO. 2695 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2006

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2685 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Fraser moved that the Senate recede from its position on Engrossed Substitute House Bill No. 2685 and pass the bill without the Senate amendment(s).

Senator Fraser spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Fraser that the Senate recede from its position on Engrossed Substitute House Bill No. 2685 and pass the bill without the Senate amendment(s).

MOTION

On motion of Senator McCaslin, Senator Morton was excused.

The motion by Senator Fraser carried and the Senate receded from its position on Engrossed Substitute House Bill No. 2685.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2685, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Mulliken, Oke, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Morton - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2685, without Senate amendment(s), having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:
SUBSTITUTE SENATE BILL NO. 5236,
SECOND ENGROSSED SENATE BILL NO. 5714,
SENATE BILL NO. 6059,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6106,
SUBSTITUTE SENATE BILL NO. 6141,
SECOND SUBSTITUTE SENATE BILL NO. 6172,
SUBSTITUTE SENATE BILL NO. 6188,
SUBSTITUTE SENATE BILL NO. 6234,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6244,
SUBSTITUTE SENATE BILL NO. 6246,
SUBSTITUTE SENATE BILL NO. 6247,
SENATE BILL NO. 6248,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6255,
SENATE BILL NO. 6264,
SENATE BILL NO. 6280,
SUBSTITUTE SENATE BILL NO. 6308,
SECOND SUBSTITUTE SENATE BILL NO. 6319,
SUBSTITUTE SENATE BILL NO. 6320,
SUBSTITUTE SENATE BILL NO. 6369,
SENATE BILL NO. 6373,
SUBSTITUTE SENATE BILL NO. 6377,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6396,
SENATE BILL NO. 6412,
SENATE BILL NO. 6418,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6427,
SENATE BILL NO. 6429,
SENATE BILL NO. 6453,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6459,
SECOND SUBSTITUTE SENATE BILL NO. 6460,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6508,
SUBSTITUTE SENATE BILL NO. 6527,
SUBSTITUTE SENATE BILL NO. 6555,
SENATE BILL NO. 6568,
SUBSTITUTE SENATE BILL NO. 6613,
SUBSTITUTE SENATE BILL NO. 6617,
SENATE BILL NO. 6637,
ENGROSSED SENATE BILL NO. 6661,
SUBSTITUTE SENATE BILL NO. 6717,
SUBSTITUTE SENATE BILL NO. 6781,
SECOND SUBSTITUTE SENATE BILL NO. 6823,
SUBSTITUTE SENATE BILL NO. 6840,

MESSAGE FROM THE HOUSE

March 4, 2006

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 3070 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Fairley moved that the Senate recede from its position on the Senate amendment(s) to Second Substitute House Bill No. 3070.

The President declared the question before the Senate to be motion by Senator Fairley that the Senate recede from its position on the Senate amendment(s) to Second Substitute House Bill No. 3070.

The motion by Senator Fairley carried and the Senate receded from its amendment(s) to Second Substitute House Bill No. 3070.

MOTION

On motion of Senator Fairley, the rules were suspended and Second Substitute House Bill No. 3070 was returned to second reading for the purposes of amendment.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 3070, by House Committee on Capital Budget (originally sponsored by Representatives Miloscia, Hasegawa, Chase and Santos)

Increasing nonprofit housing development capacity.

The measure was read the second time.

MOTION

Senator Fairley moved that the following striking amendment by Senator Fairley be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.180.160 and 1999 c 131 s 2 are each amended to read as follows:

The total amount of outstanding indebtedness of the commission may not exceed ((~~three~~)) four and one-half billion dollars at any time. The calculation of outstanding indebtedness shall include the initial principal amount of an issue and shall not include interest that is either currently payable or that accrues as a part of the face amount of an issue payable at maturity or earlier redemption. Outstanding indebtedness shall not include notes or bonds as to which the obligation of the commission has been satisfied and discharged by refunding or for which payment has been provided by reserves or otherwise."

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

MOTION

On motion of Senator Mulliken, Senator Benton was excused.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Fairley to Second Substitute House Bill No. 3070.

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

MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "increasing housing development capacity; and amending RCW 43.180.160."

MOTION

On motion of Senator Fairley, the rules were suspended, Second Substitute House Bill No. 3070 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fairley spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 3070 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 3070 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 38; Nays, 9; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Oke, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 38

Voting nay: Senators Finkbeiner, Hewitt, Honeyford, Johnson, Mulliken, Parlette, Roach, Schoesler and Zarelli - 9

Absent: Senator Deccio - 1

Excused: Senator Morton - 1

SECOND SUBSTITUTE HOUSE BILL NO. 3070 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MOTION

Senator Jacobsen moved adoption of the following resolution:

SENATE RESOLUTION
8727

By Senators Jacobsen, Hewitt, Hargrove, Stevens, Swecker, McCaslin, Spanel, Doumit, Fraser, Honeyford, Morton, Oke and Brown

WHEREAS, Vic Moon's illustrious and lengthy career with the Washington State Legislature began in 1967; and

WHEREAS, Vic's first position with the legislature, for the legislative research council, saw him pulling double duty staffing committees for both the Senate and the House of Representatives; and

WHEREAS, In 1973, Vic dedicated himself solely to the service of the upper chamber while with the Senate research center; and

WHEREAS, 1977 through 1980 saw Vic venture into the executive realm as an assistant director for the department of fisheries; and

WHEREAS, Vic could no longer stay away from this hallowed body, and returned home as a Senate staffer in 1980; and

WHEREAS, Vic has worn the title of Senate research analyst alongside the titles of husband, father, and grandfather; and

WHEREAS, Each summer saw Vic disappear to roam the backroads of the west, taking in plays, operas, and adding to the Moon family collection of western art and culture; and

WHEREAS, Vic's bolo ties and belt buckles have brought Senate fashion to heights never before seen; and

WHEREAS, "Senator Moon" has set the all-time bill report record for most one sentence bill summaries; and

WHEREAS, For the better part of forty years, Vic has shared his sense of adventure, clever wit, and good humor with those he has worked for and with;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate give Vic a heartfelt thanks for his many years of service and wish Vic the very best as he embarks on his well-deserved retirement adventures; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to Vic Moon.

Senators Jacobsen, Oke, Hargrove, Fraser, McCaslin, Parlette, Regala, Franklin, Deccio, Doumit, Honeyford, Spanel, Swecker, Rasmussen, Haugen, Roach and Stevens spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8727.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mr. Vic Moon, retiring Senate staff member, and members of his family who were seated in the gallery.

MOTION

Senator Honeyford moved adoption of the following resolution:

SENATE RESOLUTION
8733

By Senators Hewitt, Brown, Honeyford, Eide, Esser, Kastama, Stevens, Berkey, Zarelli, Pridemore, Schoesler, Weinstein, Parlette, Jacobsen, Pflug, Doumit, Benson, Hargrove, Swecker, Kohl-Welles, Finkbeiner, Fairley, Roach, Thibaudeau, Morton, Haugen, Delvin, McAuliffe, Mulliken, Prentice, McCaslin, Fraser, Benton, Franklin, Carrell, Spanel, Schmidt, Regala, Brandland, Poulsen, Deccio, Shin, Oke, Keiser, Rockefeller, Rasmussen, Sheldon and Kline

WHEREAS, Senator Stephen L. Johnson has served the people of the 47th Legislative District as a distinguished and respected member of the Washington State Senate since 1995; and

WHEREAS, Senator Johnson has served as Majority Floor Leader, Republican Floor Leader, and Republican Deputy Leader; and

WHEREAS, Senator Johnson served as the chair of the Senate Education Committee during a critical phase of school reform; and

WHEREAS, Senator Johnson is recognized and respected for his dedication to achieving excellence in education for the children of our state; and

WHEREAS, Senator Johnson is known for his quiet, meticulous work on tough issues; and

WHEREAS, Senator Johnson's understanding of the law has made him a valuable ranking member on the Senate Judiciary Committee; and

WHEREAS, Senator Johnson has provided his grateful colleagues, except for Senator McCaslin, with lengthy and technical explanations of lengthy and technical bills; and

WHEREAS, Senator Johnson has served with distinction as the senior partner in the Senate's prestigious law firm of Johnson, Kline, Esser, Rockefeller and Weinstein; and

WHEREAS, Senator Johnson is known for being a champion of the people on such burning issues as trademark registration, outdated RCW references, the Uniform Arbitration Act, inconsistencies in law regarding court filing fees, and stolen pallets; and

WHEREAS, Senator Johnson's calm, thoughtful, and deliberate manner will be greatly missed by his Senate colleagues;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate and staff express our deep appreciation to Senator Stephen L. Johnson for his commitment and dedicated service to the people of the 47th Legislative District and to the people all across Washington State; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Senator Stephen L. Johnson, the King County Bar Association, the Mayor of the City of Covington, the Mayor of the City of Black Diamond, the Mayor of the City of Kent, and the Mayor of the City of Auburn.

Senators Honeyford, Keiser, Deccio, Stevens, Eide and Esser spoke in favor of adoption of the resolution.

On motion of Senator Esser, the resolution was amended, adding Senators Rockefeller and Weinstein as "junior partners" in the Senate law firm by voice vote.

Senators Finkbeiner, Rockefeller, Kohl-Welles, McCaslin, Kline, Oke, Shin, Parlette, Hewitt, Roach and McAuliffe spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8733.

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

PERSONAL PRIVILEGE

Senator Johnson: "Thank you Mr. President. I'm almost tempted to be sentimental as I see my wife Lynn in the front and the family up in the gallery but I am Norwegian after all and so sentiment can't be much of a part of it here. I do want to reflect on some things but first I want to take care of little business. The prestigious law firm, I have some outgoing recommendations here. I'm talking of course about Johnson, Kline and others. My first would be that Senator Esser be elevated to senior status immediately. You'll be the only learned person in the noble profession on this side of the aisle. Secondly, Senator Rockefeller, the most urbane of us all, stay exactly where he is which is of counsel status. Thirdly, Senator Weinstein, who isn't here now, I suggest that he stay right where he is and do more briefing on the reporters shield bill. And finally, our intern. Nobody has referred to our intern, who isn't here either for the moment. You may remember that Abraham Lincoln became a lawyer without going to law school. He read the law in an office of a lawyer. I think based on that Senator Hargrove should now be admitted to the bar immediately, as our intern. A couple of other matters, Senator Kline we have files to divide between us. I suggest that you take all the probate files. I think you'd look perfect in a three piece suit and a bow tie and I'll take the personal injury files. I've always wanted that kind of income with fancy shoes and a sports car. No, this for me has been twelve years. It's been a wonderful time. When you like politics ever since you can remember, being elected to the Senate is a thing of beauty. After all, it's the most exclusive club in the state of Washington, the Washington State Senate, and we're all above average which we know. So, it's the people. It's the institution. It's the issues that we've undertaken. My primary impulse is one of gratitude now as I look back. Gratitude for the opportunity given me by the people of the Forty-seventh District. Let me take a minute and talk about those folks. The Renton Highlines for the first two elections, not the last one after redistricting. The people of the east hill of Kent, people of Covington, Black Diamond, most of Black Diamond, and a lot of Auburn. All those folks have in common is this: That they care a lot about schools, they care a lot about their community and really don't like to pay a lot of taxes for those things. So, I've tried to represent them for twelve years. The Forty-seventh District desk has been occupied, over the last forty some years primarily by three members. The late Senator Markin Durkin, the late Senator Kent Pullen, and the not yet late Senator Johnson so it's good company that I followed when I was elected to this seat and I'm very proud of it and it's something that I think in our district for will continue to do so. I also want to express gratitude for the pioneers of this state. When you're up on the fourth floor and you look at all the photographs, the galleries of members since territorial days, you realize how many people have been taking care of this Senate for a long, long time. All people above average, going back over a hundred years now so that we have that responsibility and I think I seen that happen. There are many times when I think members here say, 'Are we doing this in the best interest of the state of Washington and of the Senate? Because we have a certain level of standards that we think are important. I'm very grateful for that. To the members on both sides of the aisle. When I came twelve years ago your predecessor, Senator Brown, was Mark Gaspard, as Leader and Senator Hewitt, your predecessor was Dan McDonald who was newly elected at that time. To the Senate administration, the Secretary's not here right now. When I came, Marty Brown was Secretary. This shows you how often the majority has changed in this chamber which makes it interesting too. Marty Brown, succeeded by Mike O'Connell, who, in turn, was succeeded by Tony Cook, Milt Doumit and now Tom Hoemann. All who have done fine jobs. This is a marvelous institution and I feel blessed to have served with people after whom buildings have been named or maybe will be named in the future. I want to thank you Mr. President. The Lt. Governor was newly elected in 1996 and came aboard in the session in 1997. I was in my third year and newly elected as Majority Floor Leader, so we worked together then and have ever since. On the matter of naming buildings, I have a feeling if I come back here in a dozen years or so this building which has never had a good name. I mean it's the Legislative Building, the Capital, will be the 'Brad Owen Building' for two reasons: In gratitude for your service, Mr. President, and by that time he will have used up all the available office space in the building as well. You've all noticed the lovely lady sitting next to the President. I want to give a special thanks to her. Not just for the support I've had for the years I've been in the Senate, but the interest of which she has shown in Olympia and in the Senate with her friend Judy Oke, Jerri Honeyford and others over the years and I hope that you'll have introduced to you my family as well, which is in the gallery. We all know that you have to have and friends by the way. You have to have family and friends supportive of what you do because its such, kind of an irregular sort of schedule and a lot of up and downs so I want to thank them. Especially Lynn. I also want to thank Jennifer Baga who has been my legislative assistant for eleven of the twelve years. Boy, does she know this place. She thinks about things that I should of thought about before I do and that's exactly the kind of assistant that you want in this business. Finally, or the penultimate point I want to make and that is, "What have I learned," and that is, as above average as we all are in this chamber, as vain as we might be at times,

there's probably a lot more wisdom that exists back at home. I think that's worth remembering most of the time even if we begin to feel that this is the world here in Olympia and taking a deep breath and looking back isn't a bad idea because there is a lot of wisdom with the six million Washingtonians that are out there. I've taken the position for a long time that you don't leave anything. You go on to something else. So, Vic Moon isn't leaving his career here at the Senate. He's going on to an interesting career of traveling around the country. I feel that same way myself. I'm looking forward to another chapter. I think we all should. I was, I read the obituaries, not because of my profession but I find some very, very interesting life stories in the obituaries. Some of them very encouraging and inspiring and some just kind of odd and furious but in one of them some time ago, you can see this, from the newspaper yellow by now. I cut it out about four or five years ago thinking to myself, 'well, maybe I'll need that sometime,' because it has an interesting message. It's a quote from Thoreau which I want to read. Thoreau says 'I left the woods for as good a reason as I went there. Perhaps it seemed to me that I had several more lives to live and could not spare any more time for that one.' I want to wish you all my sincere gratitude and God's blessing for all that you do in the future. Thank you."

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Senator Johnson's wife, Lynn, who was seated at the rostrum.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed members of Senator Johnson's family and friends who were seated in the gallery and recognized by the Senate.

MOTION

On motion of Senator Eide, Rule 46 was suspended for the purpose of allowing the conference committee on the Supplemental Operating and Supplemental Capital budgets to meet.

MOTION

Senator Jacobsen moved adoption of the following resolution:

SENATE RESOLUTION
8737

By Senators Hewitt, Finkbeiner, Roach, Deccio, Stevens, Zarelli, Benton, Mulliken, Brandland, Schoesler, Pflug, Swecker, Delvin, Johnson, Schmidt, Kastama, Berkey, Pridemore, Weinstein, Carrell, Shin, Jacobsen, Poulsen, Kline, Kohl-Welles, Spanel, Franklin, Haugen, Hargrove, Honeyford, Regala, Rasmussen, McAuliffe, Fairley, Fraser, Sheldon, Keiser, Eide, Prentice, Rockefeller, Esser, Parlette, Benson, Doumit, Thibaudeau, Morton and Brown

WHEREAS, Senator Bob Oke has served the people of the 26th Legislative District as a dedicated and respected member of the Washington State Senate since 1991; and

WHEREAS, Senator Oke has served as Republican Whip and chair of the Senate Natural Resources and Parks Committee; and

WHEREAS, Senator Oke's understanding and commitment to improving Washington State Parks and the management of game fish and birds has made him a valuable ranking member on the Senate Natural Resources, Ocean and Recreation Committee; and

WHEREAS, Senator Oke has served continuously on the Senate Transportation Committee throughout his sixteen years of public service in the Washington State Senate; and

WHEREAS, Senator Oke's unmatched dedication, determination, and leadership on the new Tacoma Narrows Bridge project has resulted in the construction of the longest suspension bridge to be built in the United States since 1964; and

WHEREAS, Senator Oke has fought relentlessly to keep young people from starting to smoke and to protect all people from the dangers of second-hand smoke; and

WHEREAS, Senator Oke's great courage during his illness has strengthened the faith of all who know him; and

WHEREAS, Senator Oke and his lovely wife, "Mrs. Oke," brought with them to the Senate a message of love, strength, and family; and

WHEREAS, Senator Oke has been known to check in with staff using a cell phone while standing atop his car in the middle of nowhere while hunting pheasants; and

WHEREAS, Senator Oke will long be remembered for his love of the Mariners and his understanding of the importance of ball games, fishing, and other outdoor activities to the bond between a parent and a child; and

WHEREAS, Senator Oke has worked throughout his legislative career in a bipartisan, respectful, and honorable manner; and

WHEREAS, Senator Oke has earned the love and respect of his colleagues and staff members from both sides of the aisle;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate and staff express our deep appreciation to Senator Bob Oke for his commitment and dedicated service to the people of the 26th Legislative District and to the people all across Washington State; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Senator Bob Oke, Senator Ken Jacobsen, the Mayor of the City of Port Orchard, the Mayor of the City of Gig Harbor, and the Mayor of the City of Bremerton.

Senators Jacobsen, Mulliken, Deccio, Haugen, Sheldon, Swecker, Spanel, Hargrove, Shin, Franklin, Finkbeiner, Rockefeller, Stevens, Kastama, Parlette, Honeyford, Schoesler, Eide and Rasmussen spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8737.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Judy Oke, the wife of Senator Oke, who was seated at the rostrum.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed members of the Senator Okes family and friends who were seated in the gallery and recognized by the Senate.

PERSONAL PRIVILEGE

Senator Oke: "Thank you Mr. President. Boy, what a time this has been listening to these comments. I want to thank you personally for how you and Linda have treated me over the years. You're a special friend, special person and you handle that job so well. I hope you're here for a long time. Thank you. I learned one thing quickly, I'm not Norwegian I've got this Kleenex here and that proves it. I've been shedding some tears

and the other thing I know, I'm not a lawyer. I got a one pager here. He couldn't even find where all his stuff was. I really would like to take a moment and just share with you quickly cause I had opportunities to do a lot of sharing but I want you to know Bob Oke as an eighteen year old and where I come from. I'm going to try to do this very quickly. Eighteen I joined the navy and my dad gave me two choices: Either go to school or join the service and I said, 'But Pop, I'm having a great time, I mean I got a car I got my own bedroom, I can come and go when I want. He says, 'Ya, you got a couple weeks to make this choice'. Next day I went down and went to the Coast Guard but they couldn't take me right away and I went across the way to the navy and I said 'why not?' so I went over there and bang I'm going in. They gave me a good education. Not one out of the universities but a good ground floor education. When I was thirty-five, everything changed. I mean it was going one and it wasn't the right direction. In a little chapel in Bremerton the preacher, I had Judy with me, had met her and we, the first question I asked her was, Do you want to go to church?' and this is a senior chief in the navy, I mean we don't ask girls to go to church but I knew I had to make a change in my life. A month or so later the preacher really opened the door for me to understand that all I had to do was ask forgiveness for my sins and except Christ as my Lord and Savior and I'd be saved. I didn't know what saved was, I went home and I didn't know what saved was but I knew I had changed. Everything inside of me was clean and boy was that a good feeling. I fell in love with Judy. We married. My only possession, was a little tricky on my part, my only possession at that time was a sea bag and there wasn't much in the sea bag. She had a house and a lot of other things and I thought she had a lot of money and she thought I had a lot of money so we just joined forces but I think we were both wrong. One thing in accepting the Lord in your life gives you the Holy Spirit which guides and directs you and that's what made Bob Oke something other than I was. While I was out salmon fishing after one year of retirement, just having a ball, I was hunting, fishing, that's all I ever wanted to do for one year. I was reeling in a salmon and I just knew there was more to life than this and I looked up and I said 'Lord, whatever you want me to do here I am' and that's a big statement let me tell you. When I got home I told Judy, 'Pack your bags, we're on our way to Africa.' I just figured if you told the Lord you were going to do His will, you're on your way to Africa, I don't know why but a day or two later a niece that was working for one of the representatives called me and said, 'Would you come to Olympia? We need somebody up here like you,' and everything inside of me went 'No way, no way, no way,' but there was a little voice said, 'This is your call. You said you'd go' and so that's what really got me involved. 1st Corinthians 1:27 was the verse that convinced me that I could do it. It's says 'God chooses the foolish things of the world to shame the wise.' That was me God chooses the weak things of the world to shame the strong, and I fit right there. I just knew when I read that I could do this with the Holy Spirit's power and guidance. I'm not considered the smartest person on the block. In fact, if we took a WASL test I'd probably be dead last in this room. I don't know how I get by sometimes, I'm a terrible speller and my staff helps me a great deal. The other issue that I've learned strongly and it's grown me strongly is, love your enemies. Love them to death and tell them that you love them and pray for them and you know what. One day it turns around and they come to respect you and love you. If we could all do that, wouldn't this be a wonderful world? Phillippines 4:13, 'I can do all things through Christ who strengthen me' It's a plaque in my room, and I put it there originally cause some of these lobbyist would come in and I was shocked at their language and I thought I need put something up there to let them know we don't talk like that in my office. My biggest fear in sixteen years is that I would somehow, some way embarrassed my Lord and I hope when I stand before my Lord that there's a smile on His face and then he'll say, 'Well done my faithful servant.' That's what its all about. Tacoma Narrows project. I want to thank you and Judy thanks you for what you did last year. I mean that tape has been played so many times, I can't believe it. Of course when you give Judy the standing ovation, she wants to start from the back and work forward, but it doesn't quite work that way. We always end that tape with your sweet standing ovations. The pheasant farm is the cherry on the top. You know, I was thinking, those Fish & Wildlife guys are pretty smart, putting my name down there for the future. I hope, let you guys in the legislature say, 'Well, we need to take care of Bob's farm' You know, so that's a pretty good move. Tobacco sampling. Nobody will understand how much that meant to me. I don't know, truly the guidance of the Holy Spirit, but I just know that that's the most important bill that I've ever got through the Legislature and when I saw that pass in the House, I'm telling you, I just leaped with joy. Just leaped with joy. It will be one of the proudest moments in my sixteen years to be down in the Governor's office, I hope in a couple of days, to sign that bill. I wasn't the one that got it there. To be truthful, the press did it. I mean, don't pass up the pen for the sword because those articles that they wrote just nailed it. The last one in particular and the young men, that's sitting back behind me I'm told convinced the speaker to let that out for a vote. I just have one item of a negative thing. We all have to go back and campaign, half of you here don't but all the House does. Make the determination before you get started, whoever you hire to be your man in the field or whatever that nothing, nothing goes out unless you see it and approve it. We have separated ourselves through those campaigns and it's ugly. Some of the stuff that goes out there and your turn to the other candidate and say, 'Well, I didn't do it. I'm not responsible even though it was a little wrong,' and of course the Supreme Court said we could lie and I sure hope somebody fixes that one. It's the ugliest and then we have to come back as a body and I'll tell you some people have a hard time in forgiveness. You know, 'Vengeance is mine' saith the Lord and that gets me through a lot of trouble but watch, don't let somebody do your mailing and not look at it. You're responsible. I've had candidates tell me, 'Well, I didn't do it.' Well, their responsible for their campaign and dog gone it they ought to make sure that it's run right. I want to thank my staff, Michelle, in particular whose standing there and Penny, just come a little close so they can see you. They have made me and Vic and so many other staff people, look good. I mean without them I would not of made it. Penny's been with me this whole sixteen years. She's the pen behind Bob Oke. Some people think I'm pretty smart because I write all these cool articles but all I do is a little editing once in awhile and very seldom make any changes. God Bless you and thank you dears. The lady behind me, I think the Governor's going to probably say something about her, but I can't, even when my back's to her, I can't but say I have the most wonderful wife in the world. You know I had a wife before her and I picked her and her name was Judy and that's why I call Mrs. Oke, 'Mrs. Oke' because I don't need

anymore Judy's in my life. I need a Mrs. Oke and she has been terrific. She has been through everything with me and in fact when I was dealing with that sampling bill and decided that I would come back again, she had told me, 'No way. You go back, you go back by yourself, and I said,' I got to do this, Mrs. Oke and she looked at me and said, 'You'll do it, I'm with you.' So I'll tell you she didn't want to go and I didn't really either. I will miss you all of you and I'll try to come back and I think I mentioned it, I told the Governor if I'm healthy enough and so forth I would like to serve on the Fish & Wildlife Commission. I got a feeling that if they do they'll make me the legislative whatever, so I might be around. I won't bug you but when I see an issue that's right you might hear from me. Truly, God Bless you all. I just pray for your families. I pray for all of you and we have such a wonderful country and a wonderful state and a wonderful community. We all ought to be smiling all the time because we have so much to be smiling for, so much to be happy about and forget all that negative junk out there. I don't read that stuff anymore and I don't listen to it. I don't need negative in my mind. I protect my mind from the bad elements and the only thing I let go in I hope is those good things. God Bless each one of you. Thank you for being here and thank you for saying so much wonderful things and Jake, you're my favorite. I'll tell you, I just love you to death. Thank you."

MOTION

At 12:23 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

AFTERNOON SESSION

The Senate was called to order at 1:45 p.m. by President Owen.

MOTION

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

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Franklin moved that Gubernatorial Appointment No. 9386, Marilyn Walton, as a member of the Board of Trustees, Tacoma Community College District No. 22, be confirmed.

Senator Franklin spoke in favor of the motion.

APPOINTMENT OF MARILYN WALTON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9386, Marilyn Walton as a member of the Board of Trustees, Tacoma Community College District No. 22.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9386, Marilyn Walton as a member of the Board of Trustees, Tacoma Community College District No. 22 and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 8; Excused, 0.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hewitt, Honeyford, Jacobsen, Kastama, Keiser, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 41

Absent: Senators Benton, Finkbeiner, Hargrove, Haugen, Johnson, Kline, Oke and Pflug - 8

Gubernatorial Appointment No. 9386, Marilyn Walton, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Tacoma Community College District No. 22.

MOTION

On motion of Senator Schoesler, Senators Oke, Johnson, Roach, Stevens and Finkbeiner were excused.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rasmussen moved that Gubernatorial Appointment No. 9380, Herb Simon, as a member of the Board of Regents, University of Washington, be confirmed.

Senators Rasmussen, Regala and Franklin spoke in favor of the motion.

MOTION

On motion of Senator Schoesler, Senators Benton and Pflug were excused.

MOTION

On motion of Senator Regala, Senators Hargrove, Kline and Haugen were excused.

APPOINTMENT OF HERB SIMON

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9380, Herb Simon as a member of the Board of Regents, University of Washington.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9380, Herb Simon as a member of the Board of Regents, University of Washington and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 1; Excused, 7.

Voting yea: Senators Benson, Berkey, Brandland, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hewitt, Honeyford, Jacobsen, Kastama, Keiser, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 41

Absent: Senator Brown - 1

Excused: Senators Benton, Hargrove, Haugen, Johnson, Kline, Oke and Pflug - 7

Gubernatorial Appointment No. 9380, Herb Simon, having received the constitutional majority was declared confirmed as a member of the Board of Regents, University of Washington.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rasmussen moved that Gubernatorial Appointment No. 9374, Will Rasmussen, as a member of the Board of Regents, University of Washington, be confirmed.

Senator Rasmussen spoke in favor of the motion.

APPOINTMENT OF WILL RASMUSSEN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9374, Will Rasmussen as a member of the Board of Regents, University of Washington.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9374, Will Rasmussen as a member of the Board of Regents, University of Washington and the appointment was confirmed by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Kastama, Keiser, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Excused: Senators Benton, Johnson, Kline, Oke and Pflug - 5

Gubernatorial Appointment No. 9374, Will Rasmussen, having received the constitutional majority was declared confirmed as a member of the Board of Regents, University of Washington.

MOTION

At 2:07 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:36 p.m. by President Owen.

MOTION

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

MOTION

Senator McCaslin moved adoption of the following resolution:

SENATE RESOLUTION
8700

By Senator McCaslin

WHEREAS, Our good friend and colleague, Lyman Lee, passed away on January 7, 2006; and

WHEREAS, Lyman Alanzo Lee, Jr. was born in Chicago, Illinois on June 5, 1926, to Lyman Sr. and Flora Lee; and

WHEREAS, Lyman grew up in his parents' homes in Chicago, Illinois and Kewanee, Wisconsin, where he loved to ride horses at the family stables; and

WHEREAS, Lyman graduated from high school in 1946, and then earned a bachelor's degree in criminal law from the University of Chicago; and

WHEREAS, Instead of choosing a career in law, Lyman pursued a career in amateur boxing and automobile racing; and

WHEREAS, He married his high school sweetheart Pat Doyle in 1950 and hung up his boxing gloves and racing helmet when his daughter Karen was born in 1951; and

WHEREAS, Lyman owned and operated a corrugated packaging business in southern California until 1976, when he retired and moved to Washington State; and

WHEREAS, His interest in politics led him to the state Senate, where he was a dedicated employee for more than twenty years, working as a driver, supply clerk, and legislative garage supervisor; and

WHEREAS, His position with the Senate carpool afforded him numerous opportunities to provide service to Senators in need of transportation; and

WHEREAS, He was the keeper of the dreaded "Senate Van" and a yellow Camaro, coveted by all who knew him; and

WHEREAS, Lyman was an incredibly kind and gentle man whose conversation and smile often lifted the spirits of coworkers; and

WHEREAS, He will be deeply missed by all who knew him;

NOW, THEREFORE, BE IT RESOLVED, That the members of the Washington State Senate express their appreciation for Lyman Lee's excellent service to Washington State and deepest condolences at his passage; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Lyman Lee's four children, ten grandchildren, and four great-grandchildren.

Senators McCaslin and Eide spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8700.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mr. Mark Lee, the son of Lyman Lee and a former Senate Staffer who was seated in the gallery.

MOTION

Senator Finkbeiner moved adoption of the following resolution:

SENATE RESOLUTION
8735

By Senator Finkbeiner

WHEREAS, The story of the Walla Walla sweet onion began over a century ago on the Island of Corsica, off the west coast of Italy; and

WHEREAS, A French soldier found an Italian sweet onion seed and brought it to the Walla Walla Valley; and

WHEREAS, The Walla Walla sweet onion developed over several generations through the process of carefully hand selecting onions from each year's crop, ensuring exceptional sweetness, jumbo size, and round shape; and

WHEREAS, Walla Walla sweet onion growers united in 1995 to form the United States Department of Agriculture's Federal Marketing Order #956 to protect their popular industry; and

WHEREAS, Only growers within the legal production area of the Walla Walla Valley can market Walla Walla sweet onions; and

WHEREAS, A trademark logo helps ensure that customers are getting the genuine Walla Walla sweet onion; and

WHEREAS, The freshman students in Toni Miller's Kirkland Junior High humanities class have for 3 years studied the legislative process by requesting legislation naming the Walla Walla sweet onion as the official Washington state vegetable;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate recognizes the Walla Walla sweet onion as a unique and valuable product marketed by the Walla Walla sweet onion shippers; and

BE IT FURTHER RESOLVED, That the Washington State Senate recognize the Walla Walla sweet onion shippers in the state of Washington who work to make the Walla Walla sweet onion industry successful through the promotion, marketing, research, and development of this trademark crop.

Senators Finkbeiner, Rasmussen, Hewitt, Kastama, Deccio, Prentice and Honeyford spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8735.

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

MOTION

Senator Brown moved adoption of the following resolution:

SENATE RESOLUTION
8736

By Senators Brown, Deccio, Esser, Parlette, Roach, Schmidt, Benson, Johnson, Schoesler, Sheldon, Pridemore, Hargrove, Kohl-Welles, Rasmussen, Doumit, Rockefeller and Jacobsen

WHEREAS, Gonzaga University, located in Spokane, Washington, is home of the Bulldogs, whose men's basketball team has competed in the National Collegiate Athletic Association since 1958, and in the West Coast Conference (WCC) since 1979; and

WHEREAS, Gonzaga University's basketball fans are the self-proclaimed "Zag Nation," and the Bulldogs keep giving them plenty to celebrate this season, claiming two of the four yearly WCC awards, ranking first in the nation for free-throw percentage, and placing sixth in the nation for win-loss percentage; and

WHEREAS, The Bulldogs, who are ranked fourth in the nation, are on an 18 game winning streak, have not lost a home game since early 2003, winning a record 40 successive home games, in addition to 23 straight conference games, and have lost only two conference games in the past three years; and

WHEREAS, The Bulldogs' head coach Mark Few, who has an impressive career coaching record of 183-40 over nearly seven seasons, was honored with his sixth-straight WCC Coach of the Year title for guiding the team to a record sixth consecutive regular season championship; and

WHEREAS, The 2006 Bulldogs ran the table in WCC play, a feat accomplished only nine times in the previous 51 seasons, posting their second perfect 14-0 conference season in the past three seasons; and

WHEREAS, Junior forward Adam Morrison, who graduated from Spokane's Mead High School, is the sixth consecutive Gonzaga player to be named WCC Player of the Year, and is number one nationally in points per game, averaging 28.8 points per game; and

WHEREAS, Morrison recently became the first Gonzaga athlete to land the cover spread of *Sports Illustrated* magazine; and

WHEREAS, Morrison and senior center J.P. Batista were named to both the WCC All-Conference First Team and the National Association of Basketball Coaches All-District First Team; and

WHEREAS, Junior forward Sean Mallon, who has started in every game this season, was named to the WCC Winter Academic Team for the second time; and

WHEREAS, Gonzaga University hosted the 2006 West Coast Conference Basketball Tournament, which the Bulldogs entered as the No. 1 seed; and

WHEREAS, Last night, the Zags rallied from a 15-point second-half deficit to beat Loyola Marymount University and win the WCC tournament title, thereby ensuring the Bulldogs' eighth straight NCAA Tournament bid;

NOW, THEREFORE, BE IT RESOLVED, That the Senate recognize the talent and hard work of the Gonzaga University Bulldogs Men's Basketball coaches and players; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Gonzaga University Men's Basketball Coach Mark Few.

Senators Brown, Esser, Deccio and Benson spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8736.

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

MOTION

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

SECOND READING

HOUSE BILL NO. 2644, by Representatives P. Sullivan, Crouse and Kilmer

Increasing temporarily the statewide cap for the customer assistance public utility tax credit.

The measure was read the second time.

MOTION

Senator Poulsen moved that the following striking amendment by Senators Poulsen and Prentice be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.16.0497 and 2001 c 214 s 13 are each amended to read as follows:

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

(a) "Base credit" means the maximum amount of credit against the tax imposed by this chapter that each light and power business or gas distribution business may take each fiscal year as calculated by the department. The base credit is equal to the proportionate share that the total grants received by each light and power business or gas distribution business in the prior fiscal year bears to the total grants received by all light and power businesses and gas distribution businesses in the prior fiscal year multiplied by five million five hundred thousand dollars for fiscal year 2007, and two million five hundred thousand dollars for all other fiscal years before and after fiscal year 2007.

(b) "Billing discount" means a reduction in the amount charged for providing service to qualifying persons in Washington made by a light and power business or a gas distribution business. Billing discount does not include grants received by the light and power business or a gas distribution business.

(c) "Grant" means funds provided to a light and power business or gas distribution business by the department of community, trade, and economic development or by a qualifying organization.

(d) "Low-income home energy assistance program" means energy assistance programs for low-income households as defined on December 31, 2000, in the low-income home energy assistance act of 1981 as amended August 1, 1999, 42 U.S.C. Sec. 8623 et seq.

(e) "Qualifying person" means a Washington resident who applies for assistance and qualifies for a grant regardless of whether that person receives a grant.

(f) "Qualifying contribution" means money given by a light and power business or a gas distribution business to a qualifying organization, exclusive of money received in the prior fiscal year from its customers for the purpose of assisting other customers.

(g) "Qualifying organization" means an entity that has a contractual agreement with the department of community, trade, and economic development to administer in a specified service area low-income home energy assistance funds received from the federal government and such other funds that may be received by the entity.

(2) Subject to the limitations in this section, a light and power business or a gas distribution business may take a credit each fiscal year against the tax imposed under this chapter.

(a)(i) A credit may be taken for qualifying contributions if the dollar amount of qualifying contributions for the fiscal year in which the tax credit is taken is greater than one hundred twenty-five percent of the dollar amount of qualifying contributions given in fiscal year 2000.

(ii) If no qualifying contributions were given in fiscal year 2000, a credit shall be allowed for the first fiscal year that qualifying contributions are given. Thereafter, credit shall be allowed if the qualifying contributions given exceed one hundred twenty-five percent of qualifying contributions given in the first fiscal year.

(iii) The amount of credit shall be fifty percent of the dollar amount of qualifying contributions given in the fiscal year in which the tax credit is taken.

(b)(i) A credit may be taken for billing discounts if the dollar amount of billing discounts for the fiscal year in which the tax credit is taken is greater than one hundred twenty-five percent of the dollar amount of billing discounts given in fiscal year 2000.

(ii) If no billing discounts were given in fiscal year 2000, a credit shall be allowed in the first fiscal year that billing discounts are given. Thereafter, credit shall be allowed if the dollar amount of billing discounts given exceeds one hundred twenty-five percent of billing discounts given in the first fiscal year.

(iii) The amount of credit shall be fifty percent of the dollar amount of the billing discounts given in the fiscal year in which the tax credit is taken.

(c) The total amount of credit that may be taken for qualifying contributions and billing discounts in a fiscal year is limited to the base credit for the same fiscal year.

(3)(a)(i) Except as provided in (a)(ii) of this subsection, the total amount of credit, statewide, that may be taken in any fiscal year shall not exceed two million five hundred thousand dollars. (ii) The total amount of credit, statewide, that may be taken in fiscal year 2007 shall not exceed five million five hundred thousand dollars.

(b) By May 1st of each year starting in 2002, the department of community, trade, and economic development shall notify the department of revenue in writing of the grants received in the current fiscal year by each light and power business and gas distribution business.

(4)(a) Not later than June 1st of each year beginning in 2002, the department shall publish the base credit for each light and power business and gas distribution business for the next fiscal year.

(b) Not later than July 1st of each year beginning in 2002, application for credit must by made to the department including but not limited to the following information: Billing discounts given by the applicant in fiscal year 2000; qualifying contributions given by the applicant in the prior fiscal year; the amount of money received in the prior fiscal year from customers for the purpose of assisting other customers; the base credit for the next fiscal year for the applicant; the qualifying contributions anticipated to be given in the next fiscal year; and billing discounts anticipated to be given in the next fiscal year. No credit under this section will be allowed to a light and power business or gas distribution business that does not file the application by July 1st.

(c) Not later than August 1st of each year beginning in 2002, the department shall notify each applicant of the amount of credit that may be taken in that fiscal year.

(d) The balance of base credits not used by other light and power businesses and gas distribution businesses shall be ratably distributed to applicants under the formula in subsection (1)(a) of this section. The total amount of credit that may be taken by an applicant is the base credit plus any ratable portion of unused base credit.

(5) The credit taken under this section is limited to the amount of tax imposed under this chapter for the fiscal year. The credit must be claimed in the fiscal year in which the billing reduction is made. Any unused credit expires. Refunds shall not be given in place of credits.

(6) No credit may be taken for billing discounts made before July 1, 2001. Within two weeks of May 8, 2001, the department of community, trade, and economic development shall notify the department of revenue in writing of the grants received in fiscal year 2001 by each light and power business and gas distribution business. Within four weeks of May 8, 2001, the department of revenue shall publish the base credit for each light and power business and gas distribution business for fiscal year 2002. Within eight weeks of May 8, 2001, application to the department must be made showing the information required in subsection (4)(b) of this section. Within twelve weeks of May 8, 2001, the department shall notify each applicant of the amount of credit that may be taken in fiscal year 2002.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2006."

Senators Poulsen and Morton spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Poulsen and Prentice to House Bill No. 2644.

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

MOTION

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

On page 1, line 2 of the title, after "RCW 82.16.0497;" strike the remainder of the title and insert "amending RCW 82.16.0497; and providing an effective date."

MOTION

On motion of Senator Poulsen, the rules were suspended, House Bill No. 2644 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of House Bill No. 2644 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2644 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Oke - 1

HOUSE BILL NO. 2644 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2879, by Representative McIntire

Modifying the electronic administration of the real estate excise tax.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2879 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2879.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2879 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Absent: Senator Brandland - 1

Excused: Senator Oke - 1

HOUSE BILL NO. 2879, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Schoesler, Senator Brandland was excused.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2933, by House Committee on Appropriations (originally sponsored by Representatives P. Sullivan, Curtis, Simpson, Conway, Hinkle, Kenney, Williams, Ericks, Sells, Rodne, McDonald, Kilmer and Green)

Addressing death benefit payments for law enforcement officers' and fire fighters' retirement system, plan 2.

The measure was read the second time.

MOTION

On motion of Senator Fraser, the rules were suspended, Substitute House Bill No. 2933 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2933.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2933 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Oke - 1

SUBSTITUTE HOUSE BILL NO. 2933, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1523, by House Committee on Finance (originally sponsored by Representatives Quall, Morris, Pettigrew, Kilmer, Talcott, Pearson, Linville and Kristiansen)

Extending a sales and use tax exemption to the construction of new facilities to be used for the conditioning of vegetable seeds. Revised for 1st Substitute: Extending a sales and use tax exemption to the construction of new facilities to be used for the conditioning of vegetable seed.

The measure was read the second time.

MOTION

Senator Rasmussen moved that the following committee

striking amendment by the Committee on Agriculture & Rural Economic Development be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.60.020 and 2004 c 25 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Department" means the department of revenue.

(3) "Eligible area" means a rural county as defined in RCW 82.14.370.

(4)(a) "Eligible investment project" means an investment project in an eligible area as defined in subsection (3) of this section.

(b) The lessor or owner of a qualified building is not eligible for a deferral unless:

(i) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or

(ii)(A) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(B) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey required under RCW 82.60.070; and

(C) The economic benefit of the deferral passed to the lessee is no less than the amount of tax deferred by the lessor and is evidenced by written documentation of any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

(c) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(5), other than that portion of a cogeneration project that is used to generate power for consumption within the manufacturing site of which the cogeneration project is an integral part, or investment projects which have already received deferrals under this chapter.

(5) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(6) "Manufacturing" means the same as defined in RCW 82.04.120. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, ((~~and~~)) the activities performed by research and development laboratories and commercial testing laboratories, and the conditioning of vegetable seeds.

(7) "Person" has the meaning given in RCW 82.04.030.

(8) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for manufacturing and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

(9) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year. The term "entire tax year" means a full-time position that is filled for a period of twelve consecutive months. The term "full-time" means at least thirty-five hours a week, four hundred fifty-five hours a quarter, or one thousand eight hundred twenty hours a year.

(10) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(11) "Recipient" means a person receiving a tax deferral under this chapter.

(12) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2006."

Senator Rasmussen spoke in favor of adoption of the committee striking amendment.

MOTION

On motion of Senator Schoesler, Senator Brandland was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Agriculture & Rural Economic Development to Substitute House Bill No. 1523.

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

MOTION

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

On page 1, line 3 of the title, after "seeds;" strike the remainder of the title and insert "amending RCW 82.60.020; and providing an effective date."

MOTION

On motion of Senator Rasmussen, the rules were suspended, Substitute House Bill No. 1523 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rasmussen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1523 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1523 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43;

Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 43

Voting nay: Senators Fairley, Fraser, Kline, Kohl-Welles and Thibaudeau - 5

Excused: Senator Oke - 1

SUBSTITUTE HOUSE BILL NO. 1523 as amended b y the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED HOUSE BILL NO. 3159, by Representatives Linville, Newhouse, Grant, Kessler, Orcutt, Chandler, Dunn and Kristiansen

Modifying the excise taxation of food products.

The measure was read the second time.

MOTION

Senator Prentice moved that the following committee striking amendment by the Committee on Ways & Means be not adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter shall not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing dairy products; or

(b) Selling manufactured dairy products to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) "Dairy products" means dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein.

(3) This section expires July 1, 2012.

Sec. 2. RCW 82.04.4266 and 2005 c 513 s 1 are each amended to read as follows:

(1) This chapter shall not apply to ((~~amounts received from~~)) the value of products or the gross proceeds of sales derived from:

((~~(1)~~)) (a) Manufacturing fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits ((~~and~~)) or vegetables; or

((~~(2)~~)) (b) Selling at wholesale ((~~fresh~~)) fruits ((~~and~~)) or vegetables ((~~canned, preserved, frozen, processed, or dehydrated~~)) manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. ((~~As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record.~~)) A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) This section expires July 1, 2012.

Sec. 3. RCW 82.04.260 and 2005 c 513 s 2 and 2005 c 443 s 4 are each reenacted and amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola byproducts, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour, pearl barley, oil, canola meal, or canola byproduct manufactured, multiplied by the rate of 0.138 percent;

(b) Seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of 0.138 percent;

(c) Beginning July 1, 2012, dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed shall be equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. ((~~As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record~~)) Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(d) Beginning July 1, 2012, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

((~~(d)~~)) (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

((~~(e)~~)) (f) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount

of tax with respect to the business shall be equal to the value of alcohol fuel or wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(8) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business shall be equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state shall be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, as to such persons the amount of tax with respect to such business shall, in the case of manufacturers, be equal to the value of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(b) Beginning October 1, 2005, upon every person engaging within this state in the business of making sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the airplanes or components multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(c) For the purposes of this subsection (11), "commercial airplane," "component," and "final assembly of a superefficient airplane" have the meanings given in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection (11) must report as required under RCW 82.32.545.

(e) This subsection (11) does not apply after the earlier of: July 1, 2024; or December 31, 2007, if assembly of a superefficient airplane does not begin by December 31, 2007, as determined under RCW 82.32.550.

Sec. 4. RCW 82.32.610 and 2005 c 513 s 3 are each amended to read as follows:

(1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information on how a tax incentive is used.

(2) Each person claiming a tax exemption under RCW 82.04.4266 or section 1 of this act shall report information to the department by filing a complete annual survey. The survey is due by March 31st of the year following any calendar year in which a tax exemption under RCW 82.04.4266 or section 1 of this act is taken. The department may extend the due date for timely filing of annual surveys under this section as provided in RCW 82.32.590. The survey shall include the amount of tax exemption taken. The survey shall also include the following information for employment positions in Washington:

(a) The number of total employment positions;

(b) Full-time, part-time, and temporary employment positions as a percent of total employment;

(c) The number of employment positions according to the following wage bands: Less than thirty thousand dollars; thirty thousand dollars or greater, but less than sixty thousand dollars; and sixty thousand dollars or greater. A wage band containing fewer than three individuals may be combined with another wage band; and

(d) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands.

The first survey filed under this subsection shall also include information for the twelve-month period immediately before first use of a tax incentive.

(3) The department may request additional information necessary to measure the results of the exemption program, to be submitted at the same time as the survey.

(4) All information collected under this section, except the amount of the tax exemption taken, is deemed taxpayer information under RCW 82.32.330. Information on the amount of tax exemption taken is not subject to the confidentiality provisions of RCW 82.32.330.

(5) If a person fails to submit an annual survey under subsection (2) of this section by the due date of the report or any extension under RCW 82.32.590, the department shall declare the amount of taxes exempted for the previous calendar year to be immediately due and payable. The department shall assess interest, but not penalties, on the amounts due under this section. The amount due shall be calculated using a rate of 0.138 percent. The interest shall be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date the exemption was claimed, and shall accrue until the taxes for which the exemption was claimed are repaid. This information is not subject to the confidentiality provisions of RCW 82.32.330.

(6) The department shall use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers shall be included in any category. The department shall report these statistics to the legislature each year by September 1st.

(7) The department shall study the tax exemption authorized in RCW 82.04.4266 and section 1 of this act. The department shall submit a report to the finance committee of the house of representatives and the ways and means committee of the senate by December 1, 2011. The report shall measure the effect of the exemption on job creation, job retention, company growth, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

Sec. 5. RCW 82.74.010 and 2005 c 513 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Cold storage warehouse" means a storage warehouse ((~~used~~)) owned or operated by a wholesaler or third-party warehouser as those terms are defined in RCW 82.08.820 to store fresh and/or frozen perishable fruits or vegetables, dairy products, eggs or egg products, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

(3) "Dairy product" means dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein.

(4) "Dairy product manufacturing" means manufacturing, as defined in RCW 82.04.120, of dairy products.

(5) "Department" means the department of revenue.

((~~(4)~~)) (6) "Egg" means eggs that as of March 1, 2000, are identified in 7 C.F.R., chapter 1, part 94.

(7) "Egg handling" means inspecting, candling, breaking, or packaging eggs, or filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging egg products.

(8) "Egg product" means egg products that as of March 1, 2000, are identified in 7 C.F.R., chapter 1, part 94.

(9) "Eligible investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project. The lessor or owner of a qualified building is not eligible for a deferral unless (a) the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or (b)(i) the lessor by written contract agrees to pass the economic benefit of the deferral to the lessee in the form of reduced rent payments, and (ii) the lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey under RCW 82.74.040. The economic benefit of the deferral to the lessee may be evidenced by any type of payment, credit, or any other financial arrangement between the lessor or owner of the qualified building and the lessee.

((~~(5)~~)) (10) "Fresh fruit and vegetable processing" means manufacturing as defined in RCW 82.04.120 which consists of the canning, preserving, freezing, processing, or dehydrating fresh fruits and/or vegetables.

((~~(6)~~)) (11)(a) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(i) Construction of the qualified building, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(ii) Construction of the qualified building, if the economic benefits of the deferral are passed to a lessee as provided in subsection ((~~(4)~~)) (9) of this section; or

(iii) Tenant improvements for a qualified building, if the economic benefits of the deferral are passed to a lessee as provided in subsection ((~~(4)~~)) (9) of this section.

(b) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(c) If the investment project is a phased project, "initiation of construction" applies separately to each phase.

((~~(7)~~)) (12) "Person" has the meaning given in RCW 82.04.030.

((~~(8)~~)) (13) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for fresh fruit and vegetable processing, dairy product manufacturing, egg handling, cold storage ((~~warehouse~~)) warehousing, and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, plant, or laboratory used for fresh fruit and vegetable processing, dairy product manufacturing, egg handling, cold storage warehousing, or research and development. If a building is used partly for fresh fruit and vegetable processing, dairy product manufacturing, egg handling, cold storage warehousing, or research and development and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

((~~(9)~~)) (14) "Qualified machinery and equipment" means all industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a fresh fruit and vegetable processing, dairy product manufacturing, egg handling, cold storage warehouse, or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

((~~(10)~~)) (15) "Recipient" means a person receiving a tax deferral under this chapter.

((~~(11)~~)) (16) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process related to fresh fruit and vegetable processing, dairy product manufacturing, egg handling, or cold storage warehousing before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

Sec. 6. RCW 82.74.030 and 2005 c 513 s 6 are each amended to read as follows:

(1) The department shall issue a sales and use tax deferral certificate for state and local sales and use taxes ((~~due~~)) imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project if the investment project is undertaken for the purpose of fresh fruit and vegetable processing, dairy product manufacturing, egg handling, cold storage warehousing, or research and development.

(2) This section expires July 1, 2012.

Sec. 7. RCW 82.74.040 and 2005 c 513 s 7 are each amended to read as follows:

(1)(a) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information on how a tax incentive is used.

(b) Each recipient of a deferral granted under this chapter shall complete an annual survey. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.74.010((~~(4)~~)) (9), the lessee shall complete the annual survey and the applicant is not required to complete the annual survey. The survey is due by March 31st of the year following the calendar year in which the investment project is certified by the department as having been operationally complete and each of the seven succeeding calendar years. The department may extend the due date for timely filing of annual surveys under this section as provided in RCW 82.32.590. The survey shall include the amount of tax deferred. The survey shall also include the following information for employment positions in Washington:

(i) The number of total employment positions;

(ii) Full-time, part-time, and temporary employment positions as a percent of total employment;

(iii) The number of employment positions according to the following wage bands: Less than thirty thousand dollars; thirty thousand dollars or greater, but less than sixty thousand dollars; and sixty thousand dollars or greater. A wage band containing fewer than three individuals may be combined with another wage band; and

(iv) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands.

(c) The department may request additional information necessary to measure the results of the deferral program, to be submitted at the same time as the survey.

(d) All information collected under this subsection, except the amount of the tax deferral taken, is deemed taxpayer information under RCW 82.32.330. Information on the amount of tax deferral taken is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(e) The department shall use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers shall be included in any category. The department shall report these statistics to the legislature each year by September 1st.

(f) The department shall also use the information to study the tax deferral program authorized under this chapter. The department shall report to the legislature by December 1, 2011. The report shall measure the effect of the program on job creation, ((~~the number of jobs created for residents of eligible areas,~~)) company growth, the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

(2)(a) If a recipient of the deferral fails to complete the annual survey required under subsection (1) of this section by

the date due or any extension under RCW 82.32.590, twelve and one-half percent of the deferred tax shall be immediately due. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.74.010((~~(4)~~)) (9), the lessee shall be responsible for payment to the extent the lessee has received the economic benefit. The department shall assess interest, but not penalties, on the amounts due under this section. The interest shall be assessed at the rate provided for delinquent taxes under chapter 82.32 RCW, and shall accrue until the amounts due are repaid.

(b) A recipient who must repay deferred taxes under RCW 82.74.050(2) because the department has found that an investment project is used for purposes other than fresh fruit and vegetable processing, dairy product manufacturing, egg handling, cold storage warehousing, or research and development is no longer required to file annual surveys under this section beginning on the date an investment project is used for nonqualifying purposes.

Sec. 8. RCW 82.74.050 and 2005 c 513 s 8 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, taxes deferred under this chapter need not be repaid.

(2) If, on the basis of survey under RCW 82.74.040 or other information, the department finds that an investment project is used for purposes other than fresh fruit and vegetable processing, dairy product manufacturing, egg handling, cold storage warehousing, or research and development at any time during the calendar year in which the investment project is certified by the department as having been operationally completed, or at any time during any of the seven succeeding calendar years, a portion of deferred taxes shall be immediately due according to the following schedule:

Year in which nonqualifying use occurs	% of deferred taxes due
1	100%
2	87.5%
3	75%
4	62.5%
5	50%
6	37.5%
7	25%
8	12.5%

(3) The department shall assess interest, but not penalties, on the deferred taxes under subsection (2) of this section. The interest shall be assessed at the rate provided for delinquent taxes under chapter 82.32 RCW, retroactively to the date of deferral, and shall accrue until the deferred taxes are repaid. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

(4) Notwithstanding subsection (2) of this section, deferred taxes on the following need not be repaid:

(a) Machinery and equipment, and sales of or charges made for labor and services, which at the time of purchase would have qualified for exemption under RCW 82.08.02565; and

(b) Machinery and equipment which at the time of first use would have qualified for exemption under RCW 82.12.02565.

Sec. 9. RCW 82.08.820 and 1997 c 450 s 2 are each amended to read as follows:

(1) Wholesalers or third-party warehousers who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Construction of a warehouse or grain elevator, including materials, and including service and labor costs,

are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion if the expansion adds at least two hundred thousand square feet of additional space to an existing warehouse or additional storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

(c) "Department" means the department of revenue;

(d) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

(e) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk;

(f) "Grain elevator" means a structure used for storage and handling of grain in bulk;

(g) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal

property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

(h) "Person" has the meaning given in RCW 82.04.030;

(i) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

(j) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

(k) "Third-party warehouser" means a person taxable under RCW 82.04.280(4);

(l) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

(m) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, ((~~82.61,~~)) 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses and grain elevators upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

Sec. 10. RCW 82.08.820 and 2005 c 513 s 11 are each amended to read as follows:

(1) Wholesalers or third-party warehousers who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Construction of a warehouse or grain elevator, including materials, and including service and labor costs,

are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) "Cold storage warehouse" ((~~means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing~~)) has the meaning provided in RCW 82.74.010;

(c) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion if the expansion adds at least twenty-five thousand square feet of additional space to an existing cold storage warehouse, at least two hundred thousand square feet of additional space to an existing warehouse other than a cold storage warehouse, or additional storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

(d) "Department" means the department of revenue;

(e) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

(f) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum,

gas, or other extracted products stored as raw materials or in bulk;

(g) "Grain elevator" means a structure used for storage and handling of grain in bulk;

(h) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

(i) "Person" has the meaning given in RCW 82.04.030;

(j) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

(k) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

(l) "Third-party warehouser" means a person taxable under RCW 82.04.280(4);

(m) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

(n) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more, other than cold storage warehouses, and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. For cold storage warehouses with square footage of twenty-five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, ((~~82.61,~~)) 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses and grain elevators upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

Sec. 11. RCW 82.08.820 and 2005 c 513 s 11 are each amended to read as follows:

(1) Wholesalers or third-party warehousers who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Construction of a warehouse or grain elevator, including materials, and including service and labor costs,

are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) ((~~"Cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing;~~

~~(c)~~)) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion if the expansion adds ((~~at least twenty-five thousand square feet of additional space to an existing cold storage warehouse,~~)) at least two hundred thousand square feet of additional space to an existing warehouse ((~~other than a cold storage warehouse,~~)) or additional storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

((~~(d)~~)) (c) "Department" means the department of revenue;

((~~(e)~~)) (d) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

((~~(f)~~)) (e) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk;

((~~(g)~~)) (f) "Grain elevator" means a structure used for storage and handling of grain in bulk;

((~~(h)~~)) (g) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

((~~(i)~~)) (h) "Person" has the meaning given in RCW 82.04.030;

((~~(j)~~)) (i) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

((~~(k)~~)) (j) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

((~~(l)~~)) (k) "Third-party warehouser" means a person taxable under RCW 82.04.280(4);

((~~(m)~~)) (l) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

((~~(n)~~)) (m) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more((~~, other than cold storage warehouses,~~)) and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. ((~~For cold storage warehouses with square footage of twenty-five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.~~))

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, ((~~82.61,~~)) 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses and grain elevators upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

Sec. 12. RCW 82.12.820 and 2005 c 513 s 12 are each amended to read as follows:

(1) Wholesalers or third-party warehousers who own or operate warehouses or grain elevators, and retailers who own or operate distribution centers, and who have paid the tax levied under RCW 82.12.020 on:

(a) Material-handling equipment and racking equipment and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Materials incorporated in the construction of a warehouse or grain elevator, are eligible for an exemption on tax paid in the form of a remittance or credit against tax owed. The amount of the remittance or credit is computed under subsection (2) of this section and is based on the state share of use tax.

(2)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.12.020 to the department. The person may then apply to the department for remittance of all or part of the tax paid under RCW 82.12.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more((~~, other than cold storage warehouses,~~)) and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction materials, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment. ((~~For cold storage warehouses with square footage of twenty-five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.~~))

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses, if applicable; and construction invoices and documents.

(c) The department shall on a quarterly basis remit or credit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(3) Warehouse, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, ((~~82.61,~~)) 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Materials incorporated in warehouses and grain elevators upon which construction was initiated prior to May 20, 1997, are not eligible for a remittance under this section.

(4) The lessor or owner of the warehouse or grain elevator is not eligible for a remittance or credit under this section unless the underlying ownership of the warehouse or grain elevator and material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the exemption to the lessee in the form of reduced rent payments.

(5) The definitions in RCW 82.08.820 apply to this section.

Sec. 13. RCW 82.32.600 and 2005 c 514 s 1002 are each amended to read as follows:

(1) Persons required to file surveys under RCW 82.04.4452, 82.32.610, or 82.74.040 must electronically file with the department all surveys, returns, and any other forms or information the department requires in an electronic format as provided or approved by the department((~~, unless the department grants relief under subsection (2) of this section~~)). As used in this section, "returns" has the same meaning as "return" in RCW 82.32.050.

(2) ((~~Upon request, the department may relieve a person of the obligations in subsection (1) of this section if the person's taxes have been reduced a cumulative total of less than one thousand dollars from all of the credits, exemptions, or preferential business and occupation tax rates, for which a person is required to file an annual survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570, 82.32.560, 82.60.070, or 82.63.020.~~

~~(3) Persons who no longer qualify for relief under subsection (2) of this section will be notified in writing by the department and must comply with subsection (1) of this section by the date provided in the notice.~~

~~(4)~~)) Any survey, return, or any other form or information required to be filed in an electronic format under subsection (1) of this section is not filed until received by the department in an electronic format.

(3) The department may waive the electronic filing requirement in subsection (1) of this section for good cause shown.

Sec. 14. RCW 82.32.590 and 2005 c 514 s 1001 are each amended to read as follows:

(1) If the department finds that the failure of a taxpayer to file an annual survey under RCW 82.04.4452, 82.32.610, or 82.74.040 by the due date was the result of circumstances beyond the control of the taxpayer, the department shall extend the time for filing the survey. Such extension shall be for a period of thirty days from the date the department issues its

written notification to the taxpayer that it qualifies for an extension under this section. The department may grant additional extensions as it deems proper.

(2) In making a determination whether the failure of a taxpayer to file an annual survey by the due date was the result of circumstances beyond the control of the taxpayer, the department shall be guided by rules adopted by the department for the waiver or cancellation of penalties when the underpayment or untimely payment of any tax was due to circumstances beyond the control of the taxpayer.

NEW SECTION. **Sec. 15.** (1) Except as otherwise provided in this section, this act takes effect July 1, 2006.

(2) Sections 5 through 8 and 10 of this act take effect July 1, 2007.

(3) Sections 11 and 12 of this act take effect July 1, 2012.

NEW SECTION. **Sec. 16.** Section 9 of this act expires July 1, 2007.

NEW SECTION. **Sec. 17.** Section 10 of this act expires July 1, 2012."

On page 1, line 1 of the title, after "products;" strike the remainder of the title and insert "amending RCW 82.04.4266, 82.32.610, 82.74.010, 82.74.030, 82.74.040, 82.74.050, 82.08.820, 82.08.820, 82.08.820, 82.12.820, 82.32.600, and 82.32.590; reenacting and amending RCW 82.04.260; adding a new section to chapter 82.04 RCW; providing effective dates; and providing expiration dates."

The President declared the question before the Senate to be the motion by Senator Prentice to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed House Bill No. 3159.

The motion by Senator Prentice carried and the committee striking amendment was not adopted by voice vote.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter shall not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing dairy products; or

(b) Selling manufactured dairy products to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) "Dairy products" means dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein.

(3) This section expires July 1, 2012.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to the value of products or the gross proceeds of sales derived from:

(a) Manufacturing seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or

(b) Selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state to purchasers who transport in the ordinary course of business the goods out of this state. A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) This section expires July 1, 2012.

Sec. 3. RCW 82.04.4266 and 2005 c 513 s 1 are each amended to read as follows:

(1) This chapter shall not apply to ((~~amounts received from~~)) the value of products or the gross proceeds of sales derived from:

(((~~(1)~~))) (a) Manufacturing fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits ((~~and~~)) or vegetables; or

(((~~(2)~~))) (b) Selling at wholesale ((~~fresh~~)) fruits ((~~and~~)) or vegetables ((~~canned, preserved, frozen, processed, or dehydrated~~)) manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state. ((~~As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record.~~)) A person taking an exemption under this subsection (1)(b) must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(2) This section expires July 1, 2012.

Sec. 4. RCW 82.04.260 and 2005 c 513 s 2 and 2005 c 443 s 4 are each reenacted and amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola byproducts, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour, pearl barley, oil, canola meal, or canola byproduct manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2012, seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent;

(c) Beginning July 1, 2012, dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein; or selling the same to purchasers who transport in the ordinary course of business the goods out of state; as to such persons the tax imposed shall be equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. ((~~As proof of sale to a person who transports in the ordinary course of business goods out of this state, the seller shall annually provide a statement in a form prescribed by the department and retain the statement as a business record~~)) Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(d) Beginning July 1, 2012, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070

establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

((~~(d)~~)) (e) Until July 1, 2009, alcohol fuel, biodiesel fuel, or biodiesel feedstock, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel, biodiesel fuel, or biodiesel feedstock manufactured, multiplied by the rate of 0.138 percent; and

((~~(e)~~)) (f) Alcohol fuel or wood biomass fuel, as those terms are defined in RCW 82.29A.135; as to such persons the amount of tax with respect to the business shall be equal to the value of alcohol fuel or wood biomass fuel manufactured, multiplied by the rate of 0.138 percent.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5) Upon every person engaging within this state in the business of acting as a travel agent or tour operator; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(8) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business shall be equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of 3.3 percent.

If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state shall be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities shall be equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, as to such persons the amount of tax with respect to such business shall, in the case of manufacturers, be equal to the value of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(b) Beginning October 1, 2005, upon every person engaging within this state in the business of making sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the airplanes or components multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through the later of June 30, 2007, or the day preceding the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550; and

(ii) 0.2904 percent beginning on the later of July 1, 2007, or the date final assembly of a superefficient airplane begins in Washington state, as determined under RCW 82.32.550.

(c) For the purposes of this subsection (11), "commercial airplane," "component," and "final assembly of a superefficient airplane" have the meanings given in RCW 82.32.550.

(d) In addition to all other requirements under this title, a person eligible for the tax rate under this subsection (11) must report as required under RCW 82.32.545.

(e) This subsection (11) does not apply after the earlier of: July 1, 2024; or December 31, 2007, if assembly of a superefficient airplane does not begin by December 31, 2007, as determined under RCW 82.32.550.

(12) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to

such activities shall be equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

Sec. 5. RCW 82.32.610 and 2005 c 513 s 3 are each amended to read as follows:

(1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information on how a tax incentive is used.

(2) Each person claiming a tax exemption under RCW 82.04.4266, section 1 of this act, or section 2 of this act shall report information to the department by filing a complete annual survey. The survey is due by March 31st of the year following any calendar year in which a tax exemption under RCW 82.04.4266, section 1 of this act, or section 2 of this act is taken. The department may extend the due date for timely filing of annual surveys under this section as provided in RCW 82.32.590. The survey shall include the amount of tax exemption taken. The survey shall also include the following information for employment positions in Washington:

(a) The number of total employment positions;

(b) Full-time, part-time, and temporary employment positions as a percent of total employment;

(c) The number of employment positions according to the following wage bands: Less than thirty thousand dollars; thirty thousand dollars or greater, but less than sixty thousand dollars; and sixty thousand dollars or greater. A wage band containing fewer than three individuals may be combined with another wage band; and

(d) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands.

The first survey filed under this subsection shall also include information for the twelve-month period immediately before first use of a tax incentive.

(3) The department may request additional information necessary to measure the results of the exemption program, to be submitted at the same time as the survey.

(4) All information collected under this section, except the amount of the tax exemption taken, is deemed taxpayer information under RCW 82.32.330. Information on the amount of tax exemption taken is not subject to the confidentiality provisions of RCW 82.32.330.

(5) If a person fails to submit an annual survey under subsection (2) of this section by the due date of the ((~~report~~)) survey or any extension under RCW 82.32.590, the department shall declare the amount of taxes exempted for the previous calendar year to be immediately due and payable. The department shall assess interest, but not penalties, on the amounts due under this section. The amount due shall be calculated using a rate of 0.138 percent. The interest shall be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date the exemption was claimed, and shall accrue until the taxes for which the exemption was claimed are repaid. This information is not subject to the confidentiality provisions of RCW 82.32.330.

(6) The department shall use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers shall be included in any category. The department shall report these statistics to the legislature each year by September 1st.

(7) The department shall study the tax exemption authorized in RCW 82.04.4266, section 1 of this act, and section 2 of this act. The department shall submit a report to the finance committee of the house of representatives and the ways and means committee of the senate by December 1, 2011. The report shall measure the effect of the exemption on job creation, job retention, company growth, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

Sec. 6. RCW 82.74.010 and 2005 c 513 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a person applying for a tax deferral under this chapter.

(2) "Cold storage warehouse" means a storage warehouse ((~~used~~)) owned or operated by a wholesaler or third-party warehouser as those terms are defined in RCW 82.08.820 to store fresh and/or frozen perishable fruits or vegetables, dairy products, seafood products, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing.

(3) "Dairy product" means dairy products that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including byproducts from the manufacturing of the dairy products such as whey and casein.

(4) "Dairy product manufacturing" means manufacturing, as defined in RCW 82.04.120, of dairy products.

(5) "Department" means the department of revenue.

((~~(4)~~)) (6) "Eligible investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project. The lessor or owner of a qualified building is not eligible for a deferral unless (a) the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or (b)(i) the lessor by written contract agrees to pass the economic benefit of the deferral to the lessee in the form of reduced rent payments, and (ii) the lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey under RCW 82.74.040. The economic benefit of the deferral to the lessee may be evidenced by any type of payment, credit, or any other financial arrangement between the lessor or owner of the qualified building and the lessee.

((~~(5)~~)) (7) "Fresh fruit and vegetable processing" means manufacturing as defined in RCW 82.04.120 which consists of the canning, preserving, freezing, processing, or dehydrating fresh fruits and/or vegetables.

((~~(6)~~)) (8)(a) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(i) Construction of the qualified building, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(ii) Construction of the qualified building, if the economic benefits of the deferral are passed to a lessee as provided in subsection ((~~(4)~~)) (6) of this section; or

(iii) Tenant improvements for a qualified building, if the economic benefits of the deferral are passed to a lessee as provided in subsection ((~~(4)~~)) (6) of this section.

(b) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(c) If the investment project is a phased project, "initiation of construction" applies separately to each phase.

((~~(7)~~)) (9) "Person" has the meaning given in RCW 82.04.030.

((~~(8)~~)) (10) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage ((~~warehouse~~)) warehousing, and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, plant, or laboratory used for fresh fruit and vegetable processing, dairy product manufacturing, seafood product

manufacturing, cold storage warehousing, or research and development. If a building is used partly for fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

((~~(9)~~)) (11) "Qualified machinery and equipment" means all industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehouse, or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

((~~(10)~~)) (12) "Recipient" means a person receiving a tax deferral under this chapter.

((~~(11)~~)) (13) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process related to fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, or cold storage warehousing before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(14) "Seafood product" means any edible marine fish and shellfish that remains in a raw, raw frozen, or raw salted state.

(15) "Seafood product manufacturing" means the manufacturing, as defined in RCW 82.04.120, of seafood products.

Sec. 7. RCW 82.74.030 and 2005 c 513 s 6 are each amended to read as follows:

(1) The department shall issue a sales and use tax deferral certificate for state and local sales and use taxes ((~~due~~)) imposed or authorized under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project if the investment project is undertaken for the purpose of fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development.

(2) This section expires July 1, 2012.

Sec. 8. RCW 82.74.040 and 2005 c 513 s 7 are each amended to read as follows:

(1)(a) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information on how a tax incentive is used.

(b) Each recipient of a deferral granted under this chapter shall complete an annual survey. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.74.010((~~(4)~~)) (6), the lessee shall complete the annual survey and the applicant is not required to complete the annual survey. The survey is due by March 31st of the year following the calendar year in which the investment project is certified by the department as having been operationally complete and each of the seven succeeding calendar years. The department may extend the due date for timely filing of annual surveys under this section as provided in RCW 82.32.590. The survey shall include the amount of tax deferred. The survey shall also include the following information for employment positions in Washington:

(i) The number of total employment positions;

(ii) Full-time, part-time, and temporary employment positions as a percent of total employment;

(iii) The number of employment positions according to the following wage bands: Less than thirty thousand dollars; thirty thousand dollars or greater, but less than sixty thousand dollars; and sixty thousand dollars or greater. A wage band containing fewer than three individuals may be combined with another wage band; and

(iv) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands.

(c) The department may request additional information necessary to measure the results of the deferral program, to be submitted at the same time as the survey.

(d) All information collected under this subsection, except the amount of the tax deferral taken, is deemed taxpayer information under RCW 82.32.330. Information on the amount of tax deferral taken is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(e) The department shall use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers shall be included in any category. The department shall report these statistics to the legislature each year by September 1st.

(f) The department shall also use the information to study the tax deferral program authorized under this chapter. The department shall report to the legislature by December 1, 2011. The report shall measure the effect of the program on job creation, ((~~the number of jobs created for residents of eligible areas,~~)) company growth, the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

(2)(a) If a recipient of the deferral fails to complete the annual survey required under subsection (1) of this section by the date due or any extension under RCW 82.32.590, twelve and one-half percent of the deferred tax shall be immediately due. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.74.010((~~(4)~~)) (6), the lessee shall be responsible for payment to the extent the lessee has received the economic benefit. The department shall assess interest, but not penalties, on the amounts due under this section. The interest shall be assessed at the rate provided for delinquent taxes under chapter 82.32 RCW, and shall accrue until the amounts due are repaid.

(b) A recipient who must repay deferred taxes under RCW 82.74.050(2) because the department has found that an investment project is used for purposes other than fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development is no longer required to file annual surveys under this section beginning on the date an investment project is used for nonqualifying purposes.

Sec. 9. RCW 82.74.050 and 2005 c 513 s 8 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, taxes deferred under this chapter need not be repaid.

(2) If, on the basis of survey under RCW 82.74.040 or other information, the department finds that an investment project is used for purposes other than fresh fruit and vegetable processing, dairy product manufacturing, seafood product manufacturing, cold storage warehousing, or research and development at any time during the calendar year in which the investment project is certified by the department as having been operationally completed, or at any time during any of the seven succeeding calendar years, a portion of deferred taxes shall be immediately due according to the following schedule:

Year in which nonqualifying use occurs	% of deferred taxes due

1	100%
2	87.5%
3	75%
4	62.5%
5	50%
6	37.5%
7	25%
8	12.5%

(3) The department shall assess interest, but not penalties, on the deferred taxes under subsection (2) of this section. The interest shall be assessed at the rate provided for delinquent taxes under chapter 82.32 RCW, retroactively to the date of deferral, and shall accrue until the deferred taxes are repaid. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient. Transfer of ownership does not terminate the deferral. The deferral is transferred, subject to the successor meeting the eligibility requirements of this chapter, for the remaining periods of the deferral.

(4) Notwithstanding subsection (2) of this section, deferred taxes on the following need not be repaid:

(a) Machinery and equipment, and sales of or charges made for labor and services, which at the time of purchase would have qualified for exemption under RCW 82.08.02565; and

(b) Machinery and equipment which at the time of first use would have qualified for exemption under RCW 82.12.02565.

Sec. 10. RCW 82.08.820 and 1997 c 450 s 2 are each amended to read as follows:

(1) Wholesalers or third-party warehousers who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Construction of a warehouse or grain elevator, including materials, and including service and labor costs,

are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion if the expansion adds at least two hundred thousand square feet of additional space to an existing warehouse or additional storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

(c) "Department" means the department of revenue;

(d) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

(e) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk;

(f) "Grain elevator" means a structure used for storage and handling of grain in bulk;

(g) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and- place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

(h) "Person" has the meaning given in RCW 82.04.030;

(i) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

(j) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

(k) "Third-party warehouser" means a person taxable under RCW 82.04.280(4);

(l) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

(m) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a

quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, ((~~82.61,~~)) 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses and grain elevators upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

Sec. 11. RCW 82.08.820 and 2005 c 513 s 11 are each amended to read as follows:

(1) Wholesalers or third-party warehousers who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Construction of a warehouse or grain elevator, including materials, and including service and labor costs,

are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) "Cold storage warehouse" ((~~means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing~~)) has the meaning provided in RCW 82.74.010;

(c) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion if the expansion adds at least twenty-five thousand square feet of additional space to an existing cold storage warehouse, at least two hundred thousand square feet of additional space to an existing warehouse other than a cold storage warehouse, or additional storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

(d) "Department" means the department of revenue;

(e) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

(f) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk;

(g) "Grain elevator" means a structure used for storage and handling of grain in bulk;

(h) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

(i) "Person" has the meaning given in RCW 82.04.030;

(j) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

(k) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

(l) "Third-party warehouser" means a person taxable under RCW 82.04.280(4);

(m) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

(n) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more, other than cold storage warehouses, and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. For cold storage warehouses with

square footage of twenty-five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, ((~~82.61,~~)) 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses and grain elevators upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

Sec. 12. RCW 82.08.820 and 2005 c 513 s 11 are each amended to read as follows:

(1) Wholesalers or third-party warehousers who own or operate warehouses or grain elevators and retailers who own or operate distribution centers, and who have paid the tax levied by RCW 82.08.020 on:

(a) Material-handling and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Construction of a warehouse or grain elevator, including materials, and including service and labor costs,

are eligible for an exemption in the form of a remittance. The amount of the remittance is computed under subsection (3) of this section and is based on the state share of sales tax.

(2) For purposes of this section and RCW 82.12.820:

(a) "Agricultural products" has the meaning given in RCW 82.04.213;

(b) ((~~"Cold storage warehouse" means a storage warehouse used to store fresh and/or frozen perishable fruits or vegetables, or any combination thereof, at a desired temperature to maintain the quality of the product for orderly marketing;~~

~~(c)~~)) "Construction" means the actual construction of a warehouse or grain elevator that did not exist before the construction began. "Construction" includes expansion if the expansion adds ((~~at least twenty-five thousand square feet of additional space to an existing cold storage warehouse,~~)) at least two hundred thousand square feet of additional space to an existing warehouse ((~~other than a cold storage warehouse,~~)) or additional storage capacity of at least one million bushels to an existing grain elevator. "Construction" does not include renovation, remodeling, or repair;

((~~(d)~~)) (c) "Department" means the department of revenue;

((~~(e)~~)) (d) "Distribution center" means a warehouse that is used exclusively by a retailer solely for the storage and distribution of finished goods to retail outlets of the retailer. "Distribution center" does not include a warehouse at which retail sales occur;

((~~(f)~~)) (e) "Finished goods" means tangible personal property intended for sale by a retailer or wholesaler. "Finished goods" does not include agricultural products stored by wholesalers, third-party warehouses, or retailers if the storage takes place on the land of the person who produced the agricultural product. "Finished goods" does not include logs, minerals, petroleum, gas, or other extracted products stored as raw materials or in bulk;

((~~(g)~~)) (f) "Grain elevator" means a structure used for storage and handling of grain in bulk;

((~~(h)~~)) (g) "Material-handling equipment and racking equipment" means equipment in a warehouse or grain elevator that is primarily used to handle, store, organize, convey, package, or repackage finished goods. The term includes tangible personal property with a useful life of one year or more that becomes an ingredient or component of the equipment, including repair and replacement parts. The term does not include equipment in offices, lunchrooms, restrooms, and other like space, within a warehouse or grain elevator, or equipment used for nonwarehousing purposes. "Material-handling equipment" includes but is not limited to: Conveyers, carousels, lifts, positioners, pick-up-and-place units, cranes, hoists, mechanical arms, and robots; mechanized systems, including containers that are an integral part of the system, whose purpose is to lift or move tangible personal property; and automated handling, storage, and retrieval systems, including computers that control them, whose purpose is to lift or move tangible personal property; and forklifts and other off-the-road vehicles that are used to lift or move tangible personal property and that cannot be operated legally on roads and streets. "Racking equipment" includes, but is not limited to, conveying systems, chutes, shelves, racks, bins, drawers, pallets, and other containers and storage devices that form a necessary part of the storage system;

((~~(i)~~)) (h) "Person" has the meaning given in RCW 82.04.030;

((~~(j)~~)) (i) "Retailer" means a person who makes "sales at retail" as defined in chapter 82.04 RCW of tangible personal property;

((~~(k)~~)) (j) "Square footage" means the product of the two horizontal dimensions of each floor of a specific warehouse. The entire footprint of the warehouse shall be measured in calculating the square footage, including space that juts out from the building profile such as loading docks. "Square footage" does not mean the aggregate of the square footage of more than one warehouse at a location or the aggregate of the square footage of warehouses at more than one location;

((~~(l)~~)) (k) "Third-party warehouser" means a person taxable under RCW 82.04.280(4);

((~~(m)~~)) (l) "Warehouse" means an enclosed building or structure in which finished goods are stored. A warehouse building or structure may have more than one storage room and more than one floor. Office space, lunchrooms, restrooms, and other space within the warehouse and necessary for the operation of the warehouse are considered part of the warehouse as are loading docks and other such space attached to the building and used for handling of finished goods. Landscaping and parking lots are not considered part of the warehouse. A storage yard is not a warehouse, nor is a building in which manufacturing takes place; and

((~~(n)~~)) (m) "Wholesaler" means a person who makes "sales at wholesale" as defined in chapter 82.04 RCW of tangible personal property, but "wholesaler" does not include a person who makes sales exempt under RCW 82.04.330.

(3)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax

imposed by RCW 82.08.020. The buyer may then apply to the department for remittance of all or part of the tax paid under RCW 82.08.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more((~~, other than cold storage warehouses,~~)) and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment. ((~~For cold storage warehouses with square footage of twenty-five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.~~))

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses and grain elevators; and construction invoices and documents.

(c) The department shall on a quarterly basis remit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(4) Warehouses, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, ((~~82.61,~~)) 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Warehouses and grain elevators upon which construction was initiated before May 20, 1997, are not eligible for a remittance under this section.

(5) The lessor or owner of a warehouse or grain elevator is not eligible for a remittance under this section unless the underlying ownership of the warehouse or grain elevator and the material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the remittance to the lessee in the form of reduced rent payments.

Sec. 13. RCW 82.12.820 and 2005 c 513 s 12 are each amended to read as follows:

(1) Wholesalers or third-party warehousers who own or operate warehouses or grain elevators, and retailers who own or operate distribution centers, and who have paid the tax levied under RCW 82.12.020 on:

(a) Material-handling equipment and racking equipment and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment; or

(b) Materials incorporated in the construction of a warehouse or grain elevator, are eligible for an exemption on tax paid in the form of a remittance or credit against tax owed. The amount of the remittance or credit is computed under subsection (2) of this section and is based on the state share of use tax.

(2)(a) A person claiming an exemption from state tax in the form of a remittance under this section must pay the tax imposed by RCW 82.12.020 to the department. The person may then apply to the department for remittance of all or part of the tax paid under RCW 82.12.020. For grain elevators with bushel capacity of one million but less than two million, the remittance is equal to fifty percent of the amount of tax paid. For warehouses with square footage of two hundred thousand or more((~~, other than cold storage warehouses,~~)) and for grain elevators with bushel capacity of two million or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction materials, and fifty percent of the amount of tax paid for qualifying material-handling equipment and racking equipment. ((~~For cold storage warehouses with square footage of twenty-five thousand or more, the remittance is equal to one hundred percent of the amount of tax paid for qualifying construction, materials, service, and labor, and one hundred percent of the amount of tax paid for qualifying material-handling equipment and racking equipment, and labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the equipment.~~))

(b) The department shall determine eligibility under this section based on information provided by the buyer and through audit and other administrative records. The buyer shall on a quarterly basis submit an information sheet, in a form and manner as required by the department by rule, specifying the amount of exempted tax claimed and the qualifying purchases or acquisitions for which the exemption is claimed. The buyer shall retain, in adequate detail to enable the department to determine whether the equipment or construction meets the criteria under this section: Invoices; proof of tax paid; documents describing the material-handling equipment and racking equipment; location and size of warehouses, if applicable; and construction invoices and documents.

(c) The department shall on a quarterly basis remit or credit exempted amounts to qualifying persons who submitted applications during the previous quarter.

(3) Warehouse, grain elevators, and material-handling equipment and racking equipment for which an exemption, credit, or deferral has been or is being received under chapter 82.60, ((~~82.61,~~)) 82.62, or 82.63 RCW or RCW 82.08.02565 or 82.12.02565 are not eligible for any remittance under this section. Materials incorporated in warehouses and grain elevators upon which construction was initiated prior to May 20, 1997, are not eligible for a remittance under this section.

(4) The lessor or owner of the warehouse or grain elevator is not eligible for a remittance or credit under this section unless the underlying ownership of the warehouse or grain elevator and material-handling equipment and racking equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the exemption to the lessee in the form of reduced rent payments.

(5) The definitions in RCW 82.08.820 apply to this section.

Sec. 14. RCW 82.32.600 and 2005 c 514 s 1002 are each amended to read as follows:

(1) Persons required to file surveys under RCW 82.04.4452, 82.32.610, or 82.74.040 must electronically file with the department all surveys, returns, and any other forms or information the department requires in an electronic format as provided or approved by the department((~~, unless the department grants relief under subsection (2) of this section~~)). As used in this section, "returns" has the same meaning as "return" in RCW 82.32.050.

(2) ((~~Upon request, the department may relieve a person of the obligations in subsection (1) of this section if the person's taxes have been reduced a cumulative total of less than one thousand dollars from all of the credits, exemptions, or preferential business and occupation tax rates, for which a person is required to file an annual survey under RCW 82.04.4452, 82.32.535, 82.32.545, 82.32.570, 82.32.560, 82.60.070, or 82.63.020.~~

~~(3) Persons who no longer qualify for relief under subsection (2) of this section will be notified in writing by the~~

~~department and must comply with subsection (1) of this section by the date provided in the notice.~~

~~(4)~~)) Any survey, return, or any other form or information required to be filed in an electronic format under subsection (1) of this section is not filed until received by the department in an electronic format.

(3) The department may waive the electronic filing requirement in subsection (1) of this section for good cause shown.

Sec. 15. RCW 82.32.590 and 2005 c 514 s 1001 are each amended to read as follows:

(1) If the department finds that the failure of a taxpayer to file an annual survey under RCW 82.04.4452, 82.32.610, or 82.74.040 by the due date was the result of circumstances beyond the control of the taxpayer, the department shall extend the time for filing the survey. Such extension shall be for a period of thirty days from the date the department issues its written notification to the taxpayer that it qualifies for an extension under this section. The department may grant additional extensions as it deems proper.

(2) In making a determination whether the failure of a taxpayer to file an annual survey by the due date was the result of circumstances beyond the control of the taxpayer, the department shall be guided by rules adopted by the department for the waiver or cancellation of penalties when the underpayment or untimely payment of any tax was due to circumstances beyond the control of the taxpayer.

NEW SECTION. **Sec. 16.** (1) Except as otherwise provided in this section, this act takes effect July 1, 2006.

(2) Sections 6 through 9 and 11 of this act take effect July 1, 2007.

(3) Sections 12 and 13 of this act take effect July 1, 2012.

NEW SECTION. **Sec. 17.** Section 10 of this act expires July 1, 2007.

NEW SECTION. **Sec. 18.** Section 11 of this act expires July 1, 2012."

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

MOTION

Senator Prentice moved that the following amendment by Senator Prentice and others to the striking amendment be adopted.

On page 27, after line 15 of the amendment, insert the following:

"NEW SECTION. **Sec. 14.** A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales to persons who are subject to tax under RCW 82.04.260(12) of: (a) Materials used to package canned salmon including, but not limited to, clear wrap, boxes, tape, and box labels; and (b) glue, ink, or similar tangible personal property, that: (i) Affixes the label to the labeled product; or (ii) becomes a component of the label.

(2) The exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

NEW SECTION. **Sec. 15.** A new section is added to chapter 82.12 RCW to read as follows:

The provisions of this chapter do not apply with respect to the use by persons who are subject to tax under RCW 82.04.260(12) of: (1) Materials used to package canned salmon including, but not limited to, clear wrap, boxes, tape, and box labels; and (2) glue, ink, or similar tangible personal property, that: (a) Affixes the label to the labeled product; or (b) becomes a component of the label."

Senator Keiser spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Prentice and others on page 27, line 15 and others to the striking amendment to Engrossed House Bill No. 3159.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Prentice and others as amended to Engrossed House Bill No. 3159.

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

MOTION

There being no objection, the following title amendments was adopted.

On page 1, line 1 of the title, after "products;" strike the remainder of the title and insert "amending RCW 82.04.4266, 82.32.610, 82.74.010, 82.74.030, 82.74.040, 82.74.050, 82.08.820, 82.08.820, 82.08.820, 82.12.820, 82.32.600, and 82.32.590; reenacting and amending RCW 82.04.260; adding new sections to chapter 82.04 RCW; providing effective dates; and providing expiration dates."

On page 29, line 5 of the title amendment, after "82.04 RCW;" insert "adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW;"

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed House Bill No. 3159 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 3159 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 3159 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 3; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Hargrove, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 42

Voting nay: Senators Fairley, Fraser and Kohl-Welles - 3

Absent: Senators Haugen, Kline and Thibaudeau - 3

Excused: Senator Oke - 1

ENGROSSED HOUSE BILL NO. 3159 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 6230, by Senators Parlette, Doumit, Zarelli, Prentice, Rasmussen and Mulliken

Extending the state sales and use tax credit for certain public facilities districts.

MOTION

On motion of Senator Prentice, Substitute Senate Bill No. 6230 was substituted for Senate Bill No. 6230 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Prentice moved that the following amendment by Senators Prentice and Parlette be adopted.

On page 1, line 11, after "(b)" strike all material down through "2007," on line 15 and insert "created before July 1, 2006, under chapter 35.57 RCW in a county or counties in which there are no other public facilities districts on the effective date of this section and in which the total population in the public facilities district is greater than ninety thousand that commences construction of a new regional center before February 1, 2007,"

Senator Prentice spoke in favor of the adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Prentice and Parlette on page 1, line 11 to Substitute Senate Bill No. 6230.

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

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed Substitute Senate Bill No. 6230 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Prentice and Parlette spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6230.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6230 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Voting nay: Senator Fairley - 1

Excused: Senator Oke - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 6230, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Fraser, Senator Prentice was excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3222, by House Committee on Finance (originally sponsored by Representatives Pettigrew, Haler, Chandler, Kretz, Hinkle, Kristiansen, Holmquist and Linville)

Modifying excise tax exemptions for the handling and processing of livestock manure.

The measure was read the second time.

MOTION

On motion of Senator Rasmussen, the rules were suspended, Engrossed Substitute House Bill No. 3222 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rasmussen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 3222.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 3222 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 3; Absent, 1; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Zarelli - 44

Voting nay: Senators Fairley, Kohl-Welles and Weinstein - 3

Absent: Senator Stevens - 1

Excused: Senator Oke - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3222, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Engrossed Substitute Senate Bill No. 6230 was immediately transmitted to the House of Representatives.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 3282, by House Committee on Select Committee on Hood Canal (originally sponsored by Representatives Eickmeyer, Green, Haigh, Appleton, Kilmer, O'Brien, Lantz, McCoy, Chase, Miloscia, Clibborn and Ormsby)

Establishing the Hood Canal aquatic rehabilitation account. Revised for 1st Substitute: Creating the Hood Canal aquatic

rehabilitation account.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 3282 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 3282.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 3282 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Oke - 1

SUBSTITUTE HOUSE BILL NO. 3282, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:
The House has passed ENGROSSED SENATE BILL NO. 6194, with the following amendments{s} 6194.E AMH HC AMH5389.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that women and people of color experience significant disparities from the general population in education, employment, healthy living conditions, access to health care, and other social determinants of health. The legislature finds that it shall be a priority for the state to develop the knowledge, attitudes, and practice skills of health professionals and those working with diverse populations to achieve a greater understanding of the relationship between culture and health and gender and health.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.70 RCW to read as follows:

(1) For the purposes of this section, "multicultural health" means the provision of health care services with the knowledge and awareness of the causes and effects of the determinants of health that lead to disparities in health status between different genders and racial and ethnic populations and the practice skills necessary to respond appropriately.

(2) The department, in consultation with the disciplining authorities as defined in RCW 18.130.040, shall establish, within available department general funds, an ongoing multicultural health awareness and education program as an integral part of its health professions regulation. The purpose of the education program is to raise awareness and educate health care professionals regarding the knowledge, attitudes, and practice skills necessary to care for diverse populations to achieve a greater understanding of the relationship between culture and health. The disciplining authorities having the authority to offer continuing education may provide training in the dynamics of providing culturally competent, multicultural health care to diverse populations. Any such education shall be developed in collaboration with education programs that train students in that health profession. A disciplining authority may require that instructors of continuing education or continuing competency programs integrate multicultural health into their curricula when it is appropriate to the subject matter of the instruction. No funds from the health professions account may be utilized to fund activities under this section unless the disciplining authority authorizes expenditures from its proportions of the account. A disciplining authority may defray costs by authorizing a fee to be charged for participants or materials relating to any sponsored program.

(3) By July 1, 2008, each education program with a curriculum to train health professionals for employment in a profession credentialed by a disciplining authority under chapter 18.130 RCW shall integrate into the curriculum instruction in multicultural health as part of its basic education preparation curriculum. The department may not deny the application of any applicant for a credential to practice a health profession on the basis that the education or training program that the applicant successfully completed did not include integrated multicultural health curriculum as part of its basic instruction."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Franklin moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6194.

Senator Franklin spoke in favor of the motion.

MOTION

On motion of Senator Schoesler, Senator Parlette was excused.

MOTION

The President declared the question before the Senate to be the motion by Senator Franklin that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6194.

The motion by Senator Franklin carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6194 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6194, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6194, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 35; Nays, 12; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown,

Deccio, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Swecker, Thibaudeau and Weinstein - 35

Voting nay: Senators Benson, Carrell, Delvin, Hewitt, Honeyford, McCaslin, Morton, Mulliken, Pflug, Schoesler, Stevens and Zarelli - 12

Excused: Senators Oke and Parlette - 2

ENGROSSED SENATE BILL NO. 6194, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 6196, with the following amendments{s} 6196-S AMH HC H5390.1.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.20.030 and 1984 c 287 s 75 and 1984 c 243 s 2 are each reenacted and amended to read as follows:

The state board of health shall be composed of ten members. These shall be the secretary or the secretary's designee and nine other persons to be appointed by the governor, including four persons experienced in matters of health and sanitation, one of whom is a health official from a federally recognized tribe; an elected city official who is a member of a local health board((,)); an elected county official who is a member of a local health board((,)); a local health officer((,)); and two persons representing the consumers of health care. Before appointing the city official, the governor shall consider any recommendations submitted by the association of Washington cities. Before appointing the county official, the governor shall consider any recommendations submitted by the Washington state association of counties. Before appointing the local health officer, the governor shall consider any recommendations submitted by the Washington state association of local public health officials. Before appointing one of the two consumer representatives, the governor shall consider any recommendations submitted by the state council on aging. The chairman shall be selected by the governor from among the nine appointed members. The department of ((~~social and health services~~)) health shall provide necessary technical staff support to the board. The board may employ an executive director and a confidential secretary, each of whom shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 2.** This act shall be known as the Sue Crystal memorial act."
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Franklin moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6196.

Senator Franklin spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Franklin that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6196.

The motion by Senator Franklin carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6196 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6196, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6196, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Voting nay: Senator McCaslin - 1

Excused: Senators Oke and Parlette - 2

SUBSTITUTE SENATE BILL NO. 6196, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2006

MR. PRESIDENT:
The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6558, with the following amendment(s) 6558-S2 AMH FIN AMH5443.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1** The legislature recognizes the motion picture industry in Washington as a valuable commodity contributing greatly to the economic vitality of the state and the cultural integrity of our communities. The legislature further recognizes the production of in-state motion pictures, television programs, and television commercials creates a marked increase in tourism, family wage jobs, and the sale of local goods and services generating revenue for the state. Furthermore, with captive national and international audiences, the world is introduced to the state's pristine scenic venues and reminded that the Pacific Northwest is a great place to live and raise a family. The legislature also recognizes the inherent educational value of promoting arts and culture as well as the benefits of training young motion picture professionals who will build a fruitful industry for years to come.

The legislature finds in recent years that the state has realized a drastic decline in motion picture production that precludes economic expansion and threatens the state's reputation as a production destination. With the emergence of tax incentives in thirty states nationwide, in-state producers are taking their projects to more competitive economic climates, such as Oregon and Vancouver, British Columbia, where compelling tax incentive packages and subsidies are already in effect.

The legislature also finds that in recent years increasingly workers in Washington state are without health insurance coverage and retirement income protections, causing hardships on workers and their families and higher costs to the state.

Therefore, it is the intent of the legislature to recognize both national and international competition in the motion picture production marketplace. The legislature is committed to leveling the competitive playing field and interested in a partnership with the private sector to regain Washington's place as a premier destination to make motion pictures, television, and television commercials. While at the same time the legislature is committed to ensuring that workers in the motion picture and television industry are covered under health insurance and retirement income plans.

NEW SECTION. **Sec. 2** The following definitions apply to this chapter, unless the context clearly requires otherwise.

(1) "Approved motion picture competitiveness program" means a nonprofit organization under the internal revenue code, section 501(c)(6), with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production by recommending and awarding financial assistance for costs associated with motion pictures in the state of Washington.

(2) "Contribution" means cash contributions.

(3) "Costs" means actual expenses of production and postproduction expended in Washington state for the production of motion pictures, including but not limited to payments made for salaries, wages, and health insurance and retirement benefits, the rental costs of machinery and equipment and the purchase of services, food, property, lodging, and permits for work conducted in Washington state.

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

(5) "Motion picture" means a recorded audio-visual production intended for distribution to theaters, DVD, video, or the internet, or television, or one or more episodes of a single television series, television pilots or presentations, or a commercial. "Motion picture" does not mean production of a television commercial of an amount less than two hundred fifty thousand dollars in actual total investment or one or more segments of a newscast or sporting event.

(6) "Funding assistance" means cash expenditures from an approved motion picture competitiveness program.

(7) "Person" has the same meaning as provided in RCW 82.04.030.

NEW SECTION. **Sec. 3** (1) The department shall adopt criteria for an approved motion picture competitiveness program with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production. Rules adopted by the department shall allow the program, within the established criteria, to provide funding assistance only when it captures economic opportunities for Washington's communities and businesses and shall only be provided under a contractual arrangement with a private entity. In establishing the criteria, the department shall consider:

(a) The additional income and tax revenue to be retained in the state for general purposes;

(b) The creation and retention of family wage jobs which provide health insurance and payments into a retirement plan;

(c) The impact of motion picture projects to maximize in-state labor and the use of in-state film production and film postproduction companies;

(d) The impact upon the local economies and the state economy as a whole, including multiplier effects;

(e) The intangible impact on the state and local communities that comes with motion picture projects;

(f) The regional, national, and international competitiveness of the motion picture filming industry;

(g) The revitalization of the state as a premier venue for motion picture production and national television commercial campaigns;

(h) Partnerships with the private sector to bolster film production in the state and serve as an educational and cultural purpose for its citizens;

(i) The vitality of the state's motion picture industry as a necessary and critical factor in promoting the state as a premier tourist and cultural destination;

(j) Giving preference to additional seasons of television series that have previously qualified;

(k) Other factors the department may deem appropriate for the implementation of this chapter.

(2) The board of directors created under section 4 of this act shall create and administer an account for carrying out the purposes of subsection (3) of this section.

(3) Money received by an approved motion picture competitiveness program shall be used only for: (a) Health insurance and payments into a retirement plan, and other costs associated with film production; (b) a tax credit marketer to market the tax credits authorized under section 5 of this act; and (c) staff and related expenses to maintain the program's proper administration and operation.

(4) Maximum funding assistance from an approved motion picture competitiveness program is limited to:

(a) Twenty percent of a total actual investment in the state of at least five hundred thousand dollars, for a single feature film produced in Washington state;

(b) Twenty percent of a total actual investment in the state of at least three hundred thousand dollars per television episode produced in Washington state; or

(c) Twenty percent of a total actual investment in the state of at least two hundred fifty thousand dollars for an infomercial or television commercial associated with a national or regional advertisement campaign produced in Washington state.

(5) No single motion picture production or episodic television project may be awarded an amount greater than one million dollars from an approved motion picture competitiveness program.

(6) Funding assistance approval must be determined by the approved motion picture competitiveness program within a maximum of thirty calendar days from when the application is received, if the application is submitted after August 15, 2006.

NEW SECTION. **Sec. 4** (1) A Washington motion picture competitiveness program under this chapter shall be administered by a board of directors appointed by the governor, and the appointments shall be made within sixty days following enactment. The department, after consulting with the board, shall adopt rules for the standards that shall be used to evaluate the applications for funding assistance prior to June 30, 2006.

(2) The board shall evaluate and award financial assistance to motion picture projects under rules set forth under section 3 of this act.

(3) The board shall consist of the following members:

(a) One member representing the Washington motion picture production industry;

(b) One member representing the Washington motion picture postproduction industry;

(c) Two members representing labor unions affiliated with Washington motion picture production;

(d) One member representing the Washington visitors and convention bureaus;

(e) One member representing the Washington tourism industry;

(f) One member representing the Washington restaurant, hotel, and airline industry; and

(g) A chairperson, chosen at large, shall serve at the pleasure of the governor.

(4) The term of the board members, other than the chair, is four years. A board member appointed by the governor may be removed by the governor for cause under RCW 43.06.070 and 43.06.080.

(5) Five members of the board constitute a quorum.

(6) The board shall elect a treasurer and secretary annually, and other officers as the board members determine necessary, and may adopt bylaws or rules for its own government.

(7) The board shall make any information available at the request of the department to administer this chapter.

(8) Contributions received by a board shall be deposited into the account described in section 3(2) of this act.

NEW SECTION. **Sec. 5** A new section is added to chapter 82.04 RCW to read as follows:

(1) Subject to the limitations in this section, a credit is allowed against the tax imposed under this chapter for contributions made by a person to a Washington motion picture competitiveness program.

(2) The person must make the contribution before claiming a credit authorized under this section. Credits earned under this section may be claimed against taxes due for the calendar year in which the contribution is made. The amount of credit claimed for a reporting period shall not exceed the tax otherwise due under this chapter for that reporting period. No person may claim more than one million dollars of credit in any calendar year, including credit carried over from a previous calendar year. No refunds may be granted for any unused credits.

(3) The maximum credit that may be earned for each calendar year under this section for a person is limited to the lesser of:

(a) One million dollars; or

(b)(i) Through calendar year 2008, an amount equal to one hundred percent of the contributions made by the person to a program during the calendar year; and

(ii) For calendar years after 2008, an amount equal to ninety percent of the contributions made b the person to a program during the calendar year.

(4) Except as provided under subsection (5) of this section, a tax credit claimed under this section may not be carried over to another year.

(5) Any amount of tax credit otherwise allowable under this section not claimed by the person in any calendar year may be carried over and claimed against the person's tax liability for the next succeeding calendar year. Any credit remaining unused in the next succeeding calendar year may be carried forward and claimed against the person's tax liability for the second succeeding calendar year; and any credit not used in that second succeeding calendar year may be carried over and claimed against the person's tax liability for the third succeeding calendar year, but may not be carried over for any calendar year thereafter.

(6) Credits are available on a first in-time basis. The department shall disallow any credits, or portion thereof, that would cause the total amount of credits claimed under this section during any calendar year to exceed three million five hundred thousand dollars. If this limitation is reached, the department shall notify all Washington motion picture competitiveness programs that the annual statewide limit has been met. In addition, the department shall provide written notice to any person who has claimed tax credits in excess of the three million five hundred thousand dollar limitation in this subsection. The notice shall indicate the amount of tax due and shall provide that the tax be paid within thirty days from the date of such notice. The department shall not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(7) To claim a credit under this section, a person must electronically file with the department all returns, forms, and any other information required by the department, in an electronic format as provided or approved by the department. Any return, form, or information required to be filed in an electronic format under this section is not filed until received by the department in an electronic format. As used in this subsection, "returns" has the same meaning as "return" in RCW 82.32.050.

(8) No application is necessary for the tax credit. The person must keep records necessary for the department to verify eligibility under this section.

(9) A Washington motion picture competitiveness program shall provide to the department, upon request, such information needed to verify eligibility for credit under this section, including information regarding contributions received by the program.

(10) The department shall not allow any credit under this section before July 1, 2006.

(11) For the purposes of this section, "Washington motion picture competitiveness program" or "program" means an organization established pursuant to chapter 43.-- RCW (sections 1 through 4 of this act).

(12) No credit may be earned for contributions made on or after July 1, 2011.

NEW SECTION. **Sec. 6** (1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information on how incentives are used.

(2) Each motion picture production receiving funding assistance under section 3 of this act shall report information to the department by filing a complete annual survey. The survey is due by March 31st of the year following any calendar year in which funding assistance under section 4 of this act is taken. The department may extend the due date for timely filing of annual surveys under this section if failure to file was the result of circumstances beyond the control of the motion picture production receiving the funding assistance.

(3) The survey shall include the amount of funding assistance received. The survey shall also include the following information for employment positions in Washington by the motion picture production receiving funding assistance, including indirect employment by contractors or other affiliates:

(a) The number of total employment positions;

(b) Full-time, part-time, and temporary employment positions as a percent of total employment;

(c) The number of employment positions according to the following wage bands: Less than thirty thousand dollars; thirty thousand dollars or greater, but less than sixty thousand dollars; and sixty thousand dollars or greater. A wage band containing fewer than three individuals may be combined with another wage band; and

(d) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands.

(4) The department may request additional information necessary to measure the results of the funding assistance program, to be submitted at the same time as the survey.

(5) If a person fails to submit an annual survey under subsection (2) of this section by the due date of the report or any extension the department shall declare the amount of funding assistance for the previous calendar year to be immediately due and payable. The department shall assess interest, but not penalties, on the amounts due under this section. The interest shall be assessed at the rate provided for delinquent taxes under chapter 82.32 RCW, retroactively to the date the funding assistance was received, and shall accrue until the funding assistance is repaid.

(6) The department shall use the information from this section to prepare summary descriptive statistics. The department shall report these statistics to the legislature each year by September 1st. The department shall provide the complete annual surveys to the joint legislative audit and review committee.

NEW SECTION. **Sec. 7** The provisions of section 5 of this act are subject to review by the joint legislative audit and review committee. The joint legislative audit and review committee will make a recommendation to the house finance committee and the senate ways and means committee by December 1, 2010, regarding the effectiveness of the motion picture competitiveness program including, but not limited to, the amount of state revenue generated, the amount of family wages

jobs with benefits created, adherence to the criteria in section 3 of this act, and any other factors deemed appropriate by the joint legislative audit and review committee.

NEW SECTION. **Sec. 8** Sections 1 through 4, 6, and 7 of this act constitute a new chapter in Title 43 RCW."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Brown moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6558.

Senator Brown spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Brown that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6558.

The motion by Senator Brown carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6558 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6558, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6558, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Oke and Parlette - 2

SECOND SUBSTITUTE SENATE BILL NO. 6558, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2006

MR. PRESIDENT:
The House has passed the following bill{s}:
SECOND SUBSTITUTE HOUSE BILL NO. 2462,
SUBSTITUTE SENATE BILL NO. 6671,
SUBSTITUTE SENATE BILL NO. 6676,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

On motion of Senator Schoesler, Senator Brandland was excused.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 6618, with the following amendments{s} 6618-S AMH APP H5406.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** In 1993 the Washington legislature laid out a vision of a revitalized school system in Washington state. Envisioned was a comprehensive assessment system committed to high academic standards for all of its students. The Washington assessment of student learning was created as a tool to measure whether students were reaching the high academic standards. The legislature continues to support this assessment as a part of a comprehensive assessment system. Recently some alternative assessments have been developed. The legislature finds that there is interest in exploring why some students have not been able to meet the state standards and whether additional alternative methods, options, procedures, or performance measures could be used to augment the current system.

NEW SECTION. **Sec. 2.** (1) The Washington state institute for public policy shall conduct a study to explore options to augment the current system of assessments to provide additional opportunities for students to demonstrate that they have met the state learning standards. The study is limited to:

(a) A review and statistical analysis of Washington assessment of student learning data to increase understanding of the students who did not meet the standard in one or more areas of assessment, identify the characteristics of those students, and identify possible barriers to student success or possible causes of the lack of success;

(b) A review and identification of additional alternative assessment options that could be used to augment the current assessment system. In identifying the alternative assessment options, the institute shall include a review of alternative assessments used in other states as well as those that have been developed and those that have been proposed in Washington. The institute shall examine the use of national tests as well as career skill certification exams in their review of possible alternative assessment options. For each of the identified alternative assessment options, the study shall at a minimum include:

(i) An estimation of the costs for implementation;

(ii) A review of the cultural appropriateness;

(iii) Whether the alternative assessment reliably measures a student's ability to meet state learning standards in one or more of the required content areas;

(iv) Whether the alternative assessment is in compliance with RCW 28A.655.061(1); and

(v) Any challenges to implementation for each of the identified alternative assessment options, including any legislative action necessary for implementation;

(c) A review and identification of additional alternative methods, procedures, or combinations of performance measures, including those proposed in Washington, to assess whether students have met the state learning standards. For each of the identified alternative methods, procedures, or performance measures, the study shall at a minimum include:

(i) An estimation of the costs for implementation;

(ii) A review of the cultural appropriateness;

(iii) Whether the method, procedure, or performance measure reliably measures a student's ability to meet state learning standards in one or more of the required content areas;

(iv) Whether the method, procedure, or performance measure is in compliance with RCW 28A.655.061(1);

(v) Any challenges to implementation for each of the identified methods, procedures, or performance measures, including any legislative action necessary for implementation; and

(vi) Whether the procedures or methods could be standardized across the state.

(2) The Washington state institute for public policy shall provide an interim report to the legislature by December 1, 2006, and a final report by December 1, 2007. The interim report shall include a preliminary statistical analysis of the information required under subsection (1)(a) of this section and shall include recommendations on at least two alternative assessment options, alternative methods, procedures, or performance measures that were reviewed under subsection (1)(b) and (c) of this section. The final study shall include suggestions for any follow-up studies that the legislature could undertake to continue to build on the information obtained in this study.

(3) The institute shall consult, at a minimum, with nationally recognized experts on assessments including representatives from nationally recognized centers for multicultural education, representatives of the office of the superintendent of public instruction, educators, counselors, parents, the business community, classified employees, career and technical organizations, representatives of federally recognized Washington tribes, representatives of cultural, linguistic, and racial minority groups, and the community of persons with disabilities in developing the initial list of possible alternative assessment options, alternative assessment methods, procedures, or performance measures to be reviewed under subsection (1)(b) and (c) of this section.

(4) The office of the superintendent of public instruction and school districts shall provide the institute with access to all necessary data to conduct the studies in this act.

NEW SECTION. **Sec. 3.** This act shall be known as the Governor Booth Gardner Act."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6618.

Senator McAuliffe spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6618.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6618 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6618, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6618, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Absent: Senators Deccio and Roach - 2

Excused: Senators Brandland, Oke and Parlette - 3

SUBSTITUTE SENATE BILL NO. 6618, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6323, with the following amendments{s} 6323-S AMH SGOA H5271.1.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 42.17.030 and 1987 c 295 s 18 are each amended to read as follows:

The provisions of this chapter relating to the financing of election campaigns shall apply in all election campaigns other than (1) for precinct committee officer; (2) for a federal elective office; and (3) for an office of a political subdivision of the state that does not encompass a whole county and that contains fewer than five thousand registered voters as of the date of the most recent general election in the subdivision, unless required by RCW 42.17.405 (2) through (5) and (7).

Sec. 2. RCW 42.17.405 and 1986 c 12 s 3 are each amended to read as follows:

(1) Except as provided in subsections (2) ((~~and~~)), (3), and (7) of this section, the reporting provisions of this chapter do not apply to candidates, elected officials, and agencies in political subdivisions with less than one thousand registered voters as of the date of the most recent general election in the jurisdiction, to political committees formed to support or oppose candidates or ballot propositions in such political subdivisions, or to persons making independent expenditures in support of or opposition to such ballot propositions.

(2) The reporting provisions of this chapter apply in any exempt political subdivision from which a "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters, as of the date of the most recent general election in the political subdivision, is filed with the commission. The commission shall by rule prescribe the form of the petition. After the signatures are gathered, the petition shall be presented to the auditor or elections officer of the county, or counties, in which the political subdivision is located. The auditor or elections officer shall verify the signatures and certify to the commission that the petition contains no less than the required number of valid signatures. The commission, upon receipt of a valid petition, shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(3) The reporting provisions of this chapter apply in any exempt political subdivision that by ordinance, resolution, or other official action has petitioned the commission to make the provisions applicable to elected officials and candidates of the exempt political subdivision. A copy of the action shall be sent to the commission. If the commission finds the petition to be a valid action of the appropriate governing body or authority, the commission shall order every known affected person in the political subdivision to file the initially required statement and reports within fourteen days of the date of the order.

(4) The commission shall void any order issued by it pursuant to subsection (2) or (3) of this section when, at least four years after issuing the order, the commission is presented a petition or official action so requesting from the affected political subdivision. Such petition or official action shall meet the respective requirements of subsection (2) or (3) of this section.

(5) Any petition for disclosure, ordinance, resolution, or official action of an agency petitioning the commission to void

the exemption in RCW 42.17.030(3) shall not be considered unless it has been filed with the commission:

(a) In the case of a ballot measure, at least sixty days before the date of any election in which campaign finance reporting is to be required;

(b) In the case of a candidate, at least sixty days before the first day on which a person may file a declaration of candidacy for any election in which campaign finance reporting is to be required.

(6) Any person exempted from reporting under this chapter may at his or her option file the statement and reports.

(7) The reporting provisions of this chapter apply to a candidate in any political subdivision if the candidate receives or expects to receive five thousand dollars or more in contributions."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6323.

Senator Kastama spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6323.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6323 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6323, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6323, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Voting nay: Senators Honeyford and Mulliken - 2

Excused: Senators Brandland, Oke and Parlette - 3

SUBSTITUTE SENATE BILL NO. 6323, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

February 28, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5654, with the following amendments{s} 5654-S AMH JUDI H5279.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that the dissemination of personally identifying information as proscribed in RCW 4.24.680 is not in the public interest.

Sec. 2. RCW 4.24.680 and 2002 c 336 s 1 are each amended to read as follows:

((~~A person or organization shall not, with the intent to harm or intimidate, sell, trade, give, publish, distribute, or otherwise release the residential address, residential telephone number, birthdate, or social security number of any law enforcement-related, corrections officer-related, or court-related employee or volunteer, or someone with a similar name, and categorize them as such, without the express written permission of the employee or volunteer unless specifically exempted by law or court order.~~))

(1) A person shall not knowingly make available on the world wide web the personal information of a peace officer, corrections person, justice, judge, commissioner, public defender, or prosecutor if the dissemination of the personal information poses an imminent and serious threat to the peace officer's, corrections person's, justice's, judge's, commissioner's, public defender's, or prosecutor's safety or the safety of that person's immediate family and the threat is reasonably apparent to the person making the information available on the world wide web to be serious and imminent.

(2) It is not a violation of this section if an employee of a county auditor or county assessor publishes personal information, in good faith, on the web site of the county auditor or county assessor in the ordinary course of carrying out public functions.

(3) For the purposes of this section:

(a) "Commissioner" means a commissioner of the superior court, court of appeals, or supreme court.

(b) "Corrections person" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those whose civil rights have been limited in some way by legal sanction.

(c) "Immediate family" means a peace officer's, corrections person's, justice's, judge's, commissioner's, public defender's, or prosecutor's spouse, child, or parent and any other adult who lives in the same residence as the person.

(d) "Judge" means a judge of the United States district court, the United States court of appeals, the United States magistrate, the United States bankruptcy court, and the Washington court of appeals, superior court, district court, or municipal court.

(e) "Justice" means a justice of the United States supreme court or Washington supreme court.

(f) "Personal information" means a peace officer's, corrections person's, justice's, judge's, commissioner's, public defender's, or prosecutor's home address, home telephone number, pager number, social security number, home e-mail address, directions to the person's home, or photographs of the person's home or vehicle.

(g) "Prosecutor" means a county prosecuting attorney, a city attorney, the attorney general, or a United States attorney and their assistants or deputies.

(h) "Public defender" means a federal public defender, or other public defender, and his or her assistants or deputies.

Sec. 3. RCW 4.24.700 and 2002 c 336 s 3 are each amended to read as follows:

((~~Any law enforcement-related, corrections officer-related, or court-related employee or volunteer who suffers damages as a result of a person or organization selling, trading, giving, publishing, distributing, or otherwise releasing the residential address, residential telephone number, birthdate, or social security number of the employee or volunteer in violation of RCW 4.24.680 may bring an action against the person or organization in court for actual damages sustained, plus attorneys' fees and costs.~~))

Any person whose personal information is made available on the world wide web as described in RCW 4.24.680(1) who suffers damages as a result of such conduct may bring an action against the person or organization who makes such information available, for actual damages sustained plus damages in an amount not to exceed one thousand dollars for each day the personal information was made available on the world wide web, and reasonable attorneys' fees and costs.

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

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5654.

Senator Prentice spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5654.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5654 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5654, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5654, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Absent: Senator Shin - 1

Excused: Senators Brandland and Oke - 2

SUBSTITUTE SENATE BILL NO. 5654, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2006

MR. PRESIDENT:
The House has passed the following bill{s}:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1672,
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 7, 2006

MR. PRESIDENT:
The House receded from its amendment{s} to SUBSTITUTE SENATE BILL NO. 6144 and passed the bill without the House amendment{s}.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 7, 2006

MR. PRESIDENT:
The House concurred in Senate amendment{s} to the following bills and passed the bills as amended by the Senate:
SUBSTITUTE HOUSE BILL NO. 1841,
SUBSTITUTE HOUSE BILL NO. 2155,
HOUSE BILL NO. 2466,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2475,
SECOND SUBSTITUTE HOUSE BILL NO. 2754,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 3, 2006

MR. PRESIDENT:
The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6239, with the following amendments{s} 6239-S2.E AMH APP AMH5461.1.

Strike everything after the enacting clause and insert the following:

"PART I
SUBSTANCE ABUSE REDUCTION

NEW SECTION. **Sec. 101** A new section is added to chapter 70.96A RCW to read as follows:

(1) Any county that has imposed the sales and use tax authorized by RCW 82.14.460 may seek a state appropriation of up to one hundred thousand dollars annually beginning in fiscal year 2008 and ending in fiscal year 2010. The funds shall be used to provide additional support to counties for mental health or substance abuse treatment for persons with methamphetamine addiction. Local governments receiving funds under this section may not use the funds to supplant existing funding.

(2) Counties receiving funding shall: (a) Provide a financial plan for the expenditure of any potential funds prior to funds being awarded; (b) report annually to the appropriate committees of the legislature regarding the number of clients served, services provided, and a statement of expenditures; and (c) expend no more than ten percent for administrative costs or for information technology.

NEW SECTION. **Sec. 102** A new section is added to chapter 72.09 RCW to read as follows:

(1) Through June 30, 2010, it is the intent of the legislature to provide one hundred additional placements for therapeutic drug and alcohol treatment in the state's correctional institutions, above the level of placements provided on January 1, 2006.

(2) This section expires June 30, 2010.

NEW SECTION. **Sec. 103** It is the intent of the legislature to provide assistance for jurisdictions enforcing illegal drug laws that have historically been underserved by federally funded state narcotics task forces and are considered to be major transport areas of narcotics traffickers.

NEW SECTION. **Sec. 104** (1) Three pilot enforcement areas shall be established for a period of four fiscal years, beginning July 1, 2006, and ending June 30, 2010, with one in the southwestern region of the state, comprising of Pacific, Wahkiakum, Lewis, Grays Harbor, and Cowlitz counties; one in the southeastern region of the state, comprising of Walla Walla, Columbia, Garfield, and Asotin counties; and one in the northeastern part of the state, comprising of Stevens, Ferry, Pend Oreille, and Lincoln counties. The counties comprising a specific pilot area shall coordinate with each other to establish and implement a regional strategy to enforce illegal drug laws.

(2) When funded by the legislature, funding is to be divided equally among the three pilot enforcement areas. This funding is intended to provide a minimum of four additional sheriff deputies for each pilot area, two deputy prosecutors who will support the counties that are included in the pilot area, a court clerk, and clerical staff to serve the pilot area. It is the intent of the legislature that those counties that have not previously received significant federal narcotics task force funding shall be allocated funding for at least one additional sheriff's deputy. Counties are encouraged to utilize drug courts and treatment programs, and to share resources that operate in the region through the use of interlocal agreements. The funding appropriated for this purpose must not be used to supplant existing funding and cannot be used for any purpose other than the enforcement of illegal drug laws.

The criminal justice training commission shall allocate funds to the Washington association of prosecuting attorneys and the Washington association of sheriffs and police chiefs. The Washington association of prosecuting attorneys is responsible for administration of the funding and programs for the prosecution of crimes and court proceedings. The Washington association of sheriffs and police chiefs shall administer the funds provided for law enforcement.

NEW SECTION. **Sec. 105** The Washington association of sheriffs and police chiefs, the Washington association of prosecuting attorneys, and the Washington association of county officials shall jointly develop measures to determine the efficacy of the programs in the pilot areas. These measures shall include comparison of arrest rates before the implementation of this act and after, reduction of recidivism, and any other factors that are determined to be relevant to evaluation of the programs. The organizations named in this section shall present their findings to the legislature by December 1, 2008.

Sec. 106 RCW 2.28.170 and 2005 c 504 s 504 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.

(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.

Sec. 107 RCW 26.44.020 and 2000 c 162 s 19 are each amended to read as follows:

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

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

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

(3) "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.

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

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

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

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

(8) "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.

(9) "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.

(10) "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.

(11) "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.

(12) "Abuse or neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

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

(14) "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.

(15) "Negligent treatment or maltreatment" means an act or omission that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety, including but not limited to conduct prohibited under RCW 9A.42.100. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment.

(16) "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.

(17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, 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.

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

(19) "Unfounded" means available information indicates that, more likely than not, child abuse or neglect did not occur. No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

Sec. 108 RCW 26.44.020 and 2005 c 512 s 5 are each amended to read as follows:

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

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

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

(3) "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.

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

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

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

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

(8) "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.

(9) "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.

(10) "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.

(11) "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.

(12) "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.

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

(14) "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.

(15) "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 ((~~do [does]~~)) does not constitute negligent treatment or maltreatment in and of ((~~themselves [itself]~~)) itself.

(16) "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.

(17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, 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.

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

(19) "Unfounded" means available information indicates that, more likely than not, child abuse or neglect did not occur. No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

Sec. 109 RCW 74.34.020 and 2003 c 230 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual contact between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical restraints or physical restraints unless the restraints are consistent with licensing requirements, and includes restraints that are otherwise being used inappropriately.

(c) "Mental abuse" means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

(d) "Exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(3) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

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

(5) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, boarding homes; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed by the department.

(6) "Financial exploitation" means the illegal or improper use of the property, income, resources, or trust funds of the vulnerable adult by any person for any person's profit or advantage.

(7) "Individual provider" means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW.

(8) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

(9) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

(10) "Permissive reporter" means any person, employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

(11) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

(12) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

(13) "Vulnerable adult" includes a person:

(a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(b) Found incapacitated under chapter 11.88 RCW; or

(c) Who has a developmental disability as defined under RCW 71A.10.020; or

(d) Admitted to any facility; or

(e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(f) Receiving services from an individual provider.

NEW SECTION. **Sec. 110** The department of community, trade, and economic development shall review federal, state, and local funding sources and funding levels available to local meth action teams through the Washington state methamphetamine initiative to determine whether funding is adequate to accomplish the mission of the meth action teams. The department shall also review the funding levels for drug task forces in the state of Washington to determine whether they may require additional resources to successfully interdict drug trafficking organizations and clandestine labs statewide. The department shall report findings and recommendations to the legislature by November 1, 2006.

NEW SECTION. **Sec. 111** The department of social and health services shall consult with faith-based organizations to discuss the appropriate role that such organizations may have in filling support service delivery needs for persons with chemical dependency disorders. The department shall report findings and recommendations to the legislature by November 1, 2006.

NEW SECTION. **Sec. 112** The agency council on coordinated transportation shall adopt, as a part of its strategic program, a plan to increase access by recovering addicts to existing special needs transportation services already offered by medicaid brokerages and local transportation coalitions. The council may also implement an awareness campaign through

department of corrections community corrections officers and service providers licensed by the department of social and health services division of alcohol and substance abuse to promote to recovering addicts seeking treatment the use of special needs transportation services, the council web site, and the statewide trip planner. The council shall report back to the legislature regarding the implementation of these strategies by November 1, 2006.

NEW SECTION. **Sec. 113** The department of social and health services, in consultation with the attorney general, shall report to the legislature by January 15, 2007, on the status of ongoing multimedia campaigns to prevent methamphetamine use and underage drinking, and promote treatment, within the state of Washington.

PART II
CLEANUP OF CONTAMINATED PROPERTY

Sec. 201 RCW 64.44.010 and 1999 c 292 s 2 are each amended to read as follows:

The words and phrases defined in this section shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

(1) "Authorized contractor" means a person who decontaminates, demolishes, or disposes of contaminated property as required by this chapter who is certified by the department as provided for in RCW 64.44.060.

(2) "Contaminated" or "contamination" means polluted by hazardous chemicals so that the property is unfit for human habitation or use due to immediate or long-term hazards. Property that at one time was contaminated but has been satisfactorily decontaminated according to procedures established by the state board of health is not "contaminated."

(3) "Department" means the department of health.

(4) "Hazardous chemicals" means the following substances ((~~used in~~)) associated with the manufacture of illegal drugs: (a) Hazardous substances as defined in RCW 70.105D.020((~~, and~~)); (b) precursor substances as defined in RCW 69.43.010 which the state board of health, in consultation with the state board of pharmacy, has determined present an immediate or long-term health hazard to humans; and (c) the controlled substance or substances being manufactured, as defined in RCW 69.50.101.

((~~(4)~~)) (5) "Officer" means a local health officer authorized under chapters 70.05, 70.08, and 70.46 RCW.

((~~(5)~~)) (6) "Property" means any real or personal property, ((~~site, structure, or part of a structure which~~)) or segregable part thereof, that is involved in or affected by the unauthorized manufacture or storage of hazardous chemicals. This includes but is not limited to single-family residences, units of multiplexes, condominiums, apartment buildings, boats, motor vehicles, trailers, manufactured housing, ((~~or~~)) any shop, booth, ((~~or~~)) garden, or storage shed, and all contents of the items referenced in this subsection.

Sec. 202 RCW 64.44.020 and 1999 c 292 s 3 are each amended to read as follows:

Whenever a law enforcement agency becomes aware that property has been contaminated by hazardous chemicals, that agency shall report the contamination to the local health officer. The local health officer shall ((~~post~~)) cause a posting of a written warning on the premises within one working day of notification of the contamination and shall inspect the property within fourteen days after receiving the notice of contamination. The warning shall inform the potential occupants that hazardous chemicals may exist on, or have been removed from, the premises and that entry is unsafe. If a property owner believes that a tenant has contaminated property that was being leased or rented, and the property is vacated or abandoned, then the property owner shall contact the local health officer about the possible contamination. Local health officers or boards may charge property owners reasonable fees for inspections of suspected contaminated property requested by property owners.

A local health officer may enter, inspect, and survey at reasonable times any properties for which there are reasonable grounds to believe that the property has become contaminated. If the property is contaminated, the local health officer shall post a written notice declaring that the officer intends to issue an order prohibiting use of the property as long as the property is contaminated.

If access to the property is denied, a local health officer in consultation with law enforcement may seek a warrant for the purpose of conducting administrative inspections and seizure of property as defined in RCW 69.50.505. A superior, district, or municipal court within the jurisdiction of the property may, based upon probable cause that the property is contaminated, issue warrants for the purpose of conducting administrative inspections and seizure of property as defined in RCW 69.50.505.

Local health officers must report all cases of contaminated property to the state department of health. The department may make the list of contaminated properties available to health associations, landlord and realtor organizations, prosecutors, and other interested groups. The department shall promptly update the list of contaminated properties to remove those which have been decontaminated according to provisions of this chapter.

The local health officer may determine when the services of an authorized contractor are necessary.

Sec. 203 RCW 64.44.070 and 1999 c 292 s 8 are each amended to read as follows:

(1) The state board of health shall promulgate rules and standards for carrying out the provisions in this chapter in accordance with chapter 34.05 RCW, the administrative procedure act. The local board of health and the local health officer are authorized to exercise such powers as may be necessary to carry out this chapter. The department shall provide technical assistance to local health boards and health officers to carry out their duties under this chapter.

(2) The department shall adopt rules for decontamination of a property used as an illegal drug laboratory and methods for the testing of ground water, surface water, soil, and septic tanks for contamination. The rules shall establish decontamination standards for hazardous chemicals, including but not limited to methamphetamine, lead, mercury, and total volatile organic compounds. The department shall also adopt rules pertaining to independent third party sampling to verify satisfactory decontamination of property deemed contaminated and unfit for use. For the purposes of this section, an independent third party sampler is a person who is not an employee, agent, representative, partner, joint venturer, shareholder, or parent or subsidiary company of the clandestine drug laboratory decontamination contractor, the contractor's company, or property owner.

NEW SECTION. **Sec. 204** The department of community, trade, and economic development shall report to the legislature on the feasibility of providing incentives and protections to landlords to encourage housing rentals to recovering substance abusers or those convicted of drug crimes. A final report must be submitted to the appropriate committees of the legislature by January 1, 2007.

PART III
CRIMINAL SANCTIONS AND PROCEDURE

Sec. 301 RCW 9.94A.533 and 2003 c 53 s 58 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate

offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.605. All enhancements under this subsection shall run consecutively to all other

sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

Sec. 302 RCW 9.94A.660 and 2005 c 460 s 1 are each amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(c) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(d) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(e) The standard sentence range for the current offense is greater than one year; and

(f) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a sentence under this section may be made by the court, the offender, or the state. If the sentencing court determines that the offender is eligible for this alternative, the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:

(a) Whether the offender suffers from drug addiction;

(b) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(c) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and

(d) Whether the offender and the community will benefit from the use of the alternative.

(3) The examination report must contain:

(a) Information on the issues required to be addressed in subsection (2) of this section; and

(b) A proposed treatment plan that must, at a minimum, contain:

(i) A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;

(ii) The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;

(iii) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

(iv) Recommended crime-related prohibitions and affirmative conditions.

(4) After receipt of the examination report, if the court determines that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under subsection (5) of this section or a residential chemical dependency treatment-based alternative under subsection (6) of this section. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(5) The prison-based alternative shall include:

(a) A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range or twelve months, whichever is greater. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections;

(b) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

(c) Crime-related prohibitions including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.715 to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

(6) The residential chemical dependency treatment-based alternative shall include:

(a) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under subsection (3)(b) of this section. The department may impose conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7), 9.94A.737, and 9.94A.740. The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

(b) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:

(i) Authorize the department to terminate the offender's community custody status on the expiration date determined under (a) of this subsection; or

(ii) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(iii) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.715;

(c) If the court imposes a term of total confinement under (b)(iii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment

services available to the offender during the terms of total confinement and community custody.

(7) If the court imposes a sentence under this section, the court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court may impose any of the following conditions:

(a) Devote time to a specific employment or training;

(b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;

(c) Report as directed to a community corrections officer;

(d) Pay all court-ordered legal financial obligations;

(e) Perform community restitution work;

(f) Stay out of areas designated by the sentencing court;

(g) Such other conditions as the court may require such as affirmative conditions.

(8)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the terms of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

(9) If an offender sentenced to the prison-based alternative under subsection (5) of this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

(10) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

(11) Costs of examinations and preparing treatment plans under subsections (2) and (3) of this section may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.

Sec. 303 RCW 9.94A.500 and 2000 c 75 s 8 are each amended to read as follows:

(1) Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing.

Except in cases where the defendant shall be sentenced to a term of total confinement for life without the possibility of release or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, the court may order the department to complete a risk assessment report. If available before sentencing, the report shall be provided to the court.

Unless specifically waived by the court, the court shall order the department to complete a chemical dependency screening report before imposing a sentence upon a defendant who has been convicted of a violation of the uniform controlled substances act under chapter 69.50 RCW ((~~or~~)), 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.

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 ((~~71.34.225~~))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, ((~~71.34.225~~)) 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.

NEW SECTION. **Sec. 304** The Washington institute for public policy shall conduct a study of criminal sentencing provisions of neighboring states for all crimes involving methamphetamine. The institute shall report to the legislature on any criminal sentencing increases necessary under Washington law to reduce or remove any incentives methamphetamine traffickers and manufacturers may have to locate in Washington. The report shall be completed by January 1, 2007.

NEW SECTION. **Sec. 305** The Washington institute for public policy shall conduct a study of the drug offender sentencing alternative. The institute shall study recidivism rates for offenders who received substance abuse treatment while in confinement as compared to offenders who received treatment in the community or received no treatment. The institute shall report to the legislature by January 1, 2007.

PART IV
MISCELLANEOUS

NEW SECTION. **Sec. 401** Part headings used in this act are no part of the law.

NEW SECTION. **Sec. 402** If specific funding for the purposes of each section of this act, referencing the section by section number and by bill or chapter number, is not provided by June 30, 2006, in the omnibus appropriations act, each section not referenced in the omnibus appropriations act is null and void.

NEW SECTION. **Sec. 403** Section 107 of this act expires January 1, 2007.

NEW SECTION. **Sec. 404** Section 108 of this act takes effect January 1, 2007."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6239.

Senators Prentice and Hargrove spoke in favor of the motion.

MOTION

On motion of Senator Weinstein, Senator Shin was excused.

MOTION

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6239.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6239 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6239, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6239, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Oke - 1

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6239, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6365, with the following amendments{s} 6365-S AMH LINV H5414.2.

Strike everything after the enacting clause and insert the following:

"**Sec. 1** RCW 19.94.175 and 1995 c 355 s 7 are each amended to read as follows:

(1) Pursuant to RCW 19.94.015, the following annual registration fees shall be charged for each weighing or measuring instrument or device used for commercial purposes in this state:

(a)	Weighing devices:	
(i)	Small scales "zero to four hundred pounds capacity"	$ ((~~5.00~~)) 7.50
(ii)	Intermediate scales "four hundred one pounds to five thousand pounds capacity"	$ ((~~20.00~~)) 30.00
(iii)	Large scales "over five thousand pounds capacity"	$ ((~~52.00~~)) 63.50
(iv)	((~~Large scales with supplemental devices . . . . . .~~	~~$ 52.00~~
~~(v)~~))	Railroad track scales	$ 800.00
(b)	Liquid fuel metering devices:	
(i)	Motor fuel meters with flows of ((~~less than~~)) twenty gallons or less per minute	$ ((~~5.00~~)) 7.50
(ii)	Motor fuel meters with flows of more than twenty but not more than one hundred fifty gallons per minute	$ ((~~16.00~~)) 24.00

(iii) Motor fuel meters with flows over one hundred fifty gallons per minute . . . . . $ ((~~25.00~~)) 37.50

(c) Liquid petroleum gas meters:

(i) With one inch diameter or smaller dispensers . . . . . $ ((~~10.00~~)) 17.50

(ii) With greater than one inch diameter dispensers . . . . . $ ((~~30.00~~)) 40.00

(d) Fabric meters . . . . . $ ((~~5.00~~)) 7.50

(e) Cordage meters . . . . . $ ((~~5.00~~)) 7.50

(f) Mass flow meters . . . . . $ ((~~14.00~~)) 107.00

(g) Taxi meters . . . . . $ ((~~5.00~~)) 15.00

(2) With the exception of subsection (3) of this section, no person shall be required to pay more than the ((~~established~~)) annual registration fee ((~~adopted under this section~~)) for any weighing or measuring instrument or device in any one year.

(3) The department or a city sealer may establish reasonable inspection and testing fees for each type or class of weighing or measuring instrument or device specially requested to be inspected or tested by the device owner. These inspection and testing fees shall be limited to those amounts necessary for the department or city sealer to cover the direct costs associated with such inspection and testing. The fees ((~~established under this subsection~~)) shall not be set so as to compete with service agents normally engaged in such services.

Sec. 2 RCW 19.94.175 and 1995 c 355 s 7 are each amended to read as follows:

(1) Pursuant to RCW 19.94.015, the following annual registration fees shall be charged for each weighing or measuring instrument or device used for commercial purposes in this state:

(a) Weighing devices:

(i) Small scales "zero to four hundred pounds capacity" . . . . . $ ((~~5.00~~)) 10.00

(ii) Intermediate scales "four hundred one pounds to five thousand pounds capacity" . . . . . $ ((~~20.00~~)) 40.00

(iii) Large scales "over five thousand pounds capacity" . . . . . $ ((~~52.00~~)) 75.00

(iv) ((~~Large scales with supplemental devices . . . . . $ 52.00~~

(v))) Railroad track scales . . . . . $ 800.00

(b) Liquid fuel metering devices:

(i) Motor fuel meters with flows of ((~~less than~~)) twenty gallons or less per minute . . . . . $ ((~~5.00~~)) 10.00

(ii) Motor fuel meters with flows of more than twenty but not more than one hundred fifty gallons per minute . . . . . $ ((~~16.00~~)) 32.00

(iii) Motor fuel meters with flows over one hundred fifty gallons per minute . . . . . $ ((~~25.00~~)) 50.00

(c) Liquid petroleum gas meters:

(i) With one inch diameter or smaller dispensers . . . . . $ ((~~10.00~~)) 25.00

(ii) With greater than one inch diameter dispensers . . . . . $ ((~~30.00~~)) 50.00

(d) Fabric meters . . . . . $ ((~~5.00~~)) 10.00

(e)	Cordage meters	$	((~~5.00~~)) 10.00
(f)	Mass flow meters	$	((~~14.00~~)) 200.00
(g)	Taxi meters	$	((~~5.00~~)) 25.00

(2) With the exception of subsection (3) of this section, no person shall be required to pay more than the ((~~established~~)) annual registration fee ((~~adopted under this section~~)) for any weighing or measuring instrument or device in any one year.

(3) The department or a city sealer may establish reasonable inspection and testing fees for each type or class of weighing or measuring instrument or device specially requested to be inspected or tested by the device owner. These inspection and testing fees shall be limited to those amounts necessary for the department or city sealer to cover the direct costs associated with such inspection and testing. The fees ((~~established under this subsection~~)) shall not be set so as to compete with service agents normally engaged in such services.

Sec. 3 RCW 15.80.450 and 1969 ex.s. c 100 s 16 are each amended to read as follows:

Any person may apply to the director for a weighmaster's license. Such application shall be on a form prescribed by the director and shall include:

(1) The full name of the person applying for such license and if the applicant is a partnership, association or corporation, the full name of each member of the partnership or the names of the officers of the association or corporation;

(2) The principal business address of the applicant in this state and elsewhere;

(3) The names of the persons authorized to receive and accept service of summons and legal notice of all kinds for the applicant;

(4) The location of any scale or scales subject to the applicant's control and from which certified weights will be issued; and

(5) Such other information as the director feels necessary to carry out the purposes of this chapter.

Such annual application shall be accompanied by a license fee of ((~~twenty~~)) fifty dollars for each scale from which certified weights will be issued and a bond as provided for in RCW 15.80.480.

Sec. 4 RCW 15.80.490 and 1969 ex.s. c 100 s 20 are each amended to read as follows:

Any weighmaster may file an application with the director for a license for any employee or agent to operate and issue certified weight tickets from a scale which such weighmaster is licensed to operate under the provisions of this chapter. Such application shall be submitted on a form prescribed by the director and shall contain the following:

(1) Name of the weighmaster;

(2) The full name of the employee or agent and his resident address;

(3) The position held by such person with the weighmaster;

(4) The scale or scales from which such employee or agent will issue certified weights; and

(5) Signature of the weigher and the weighmaster.

Such annual application shall be accompanied by a license fee of ((~~five~~)) ten dollars.

Sec. 5 RCW 19.94.2582 and 1995 c 355 s 16 are each amended to read as follows:

(1) Each request for an official registration certificate shall be in writing, under oath, and on a form prescribed by the department and shall contain any relevant information as the director may require, including but not limited to the following:

(a) The name and address of the person, corporation, partnership, or sole proprietorship requesting registration;

(b) The names and addresses of all individuals requesting an official registration certificate from the department; and

(c) The tax registration number as required under RCW 82.32.030 or uniform business identifier provided on a master license issued under RCW 19.02.070.

(2) Each individual when submitting a request for an official registration certificate or a renewal of such a certificate shall pay a fee to the department in the amount of ((~~eighty~~)) one hundred sixtydollars per individual.

(3) The department shall issue a decision on a request for an official registration certificate within twenty days of receipt of the request. If an individual is denied their request for an official registration certificate, the department must notify that individual in writing stating the reasons for the denial and shall refund any payments made by that individual in connection with the request.

NEW SECTION. **Sec. 6** The director of the department of agriculture or the director's designee shall convene its weights and measures advisory committee on a quarterly basis to monitor implementation of this act. The department and the advisory committee shall report to the appropriate committees of the legislature by December 1, 2006, if they have any recommended changes to the implementation of the weights and measures program.

NEW SECTION. **Sec. 7** The department of agriculture shall provide a report to appropriate committees of the legislature on the status of the weights and measures program by December 15, 2007.

NEW SECTION. **Sec. 8** (1) Sections 1 and 3 through 7 of this act take effect July 1, 2006.

(2) Section 2 of this act takes effect July 1, 2007.

NEW SECTION. **Sec. 9** Section 1 of this act expires July 1, 2007."

On page 1, line 1 of the title, after "program;" strike the remainder of the title and insert "amending RCW 19.94.175, 19.94.175, 15.80.450, 15.80.490, and 19.94.2582; creating new sections; providing effective dates; and providing an expiration date."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Rasmussen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6365.

Senator Rasmussen spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Rasmussen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6365.

The motion by Senator Rasmussen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6365 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6365, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6365, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 7; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Fairley, Finkbeiner, Franklin,

Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Schoesler, Shin, Spanel, Stevens, Swecker, Thibaudeau and Weinstein - 41

Voting nay: Senators Benton, Carrell, Esser, McCaslin, Roach, Sheldon and Zarelli - 7

Excused: Senator Oke - 1

SUBSTITUTE SENATE BILL NO. 6365, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:
The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6635, with the following amendments{s} 6635-S.E AMH CFS AMH 5361.1.

Strike everything after the enacting clause and insert the following:

"**Sec. 1** RCW 26.33.045 and 1995 c 270 s 8 are each amended to read as follows:

(1) An adoption shall not be delayed or denied on the basis of the race, color, or national origin of the adoptive parent or the child involved. However, when the department or an agency considers whether a placement option is in a child's best interests, the department or agency may consider the cultural, ethnic, or racial background of the child and the capacity of prospective adoptive parents to meet the needs of a child of this background. This provision shall not apply to or affect the application of the Indian Child Welfare Act of 1978, 25 U.S.C. Sec. 1901 et seq.

(2) The department shall create standardized training to be provided to all department employees involved in the placement of a child to assure compliance with Title IV of the civil rights act of 1964 and the multiethnic placement act of 1994, as amended by the interethnic adoption provisions of the small business job protection act of 1996. Such training shall be open to agency employees.

NEW SECTION. **Sec. 2** The department of health, in cooperation with the department of social and health services, shall recommend a process for the efficient collection, compilation, and annual publication of adoption statistical data, including data regarding fees, costs, and expenses paid by adoptive families. In developing recommendations, the department of health and the department of social and health services shall consider current processes and requirements for adoption data collection and reporting. The department of health shall report to the legislature not later than October 1, 2006, regarding its recommendations.

NEW SECTION. **Sec. 3** The department of social and health services shall, in consultation with adoption advocates, representatives of adoption agencies, adoption attorneys, child-placing agencies, birth and adoptive parents and adapters, federally recognized tribes, and representatives of the superior court judges:

(1) Review the fees associated with children adopted out of the foster care system who are dependents of the state of Washington. The review shall include a determination of whether fees or any other factors are barriers to adoptions of children out of the foster care system; and

(2) Study accreditation standards developed for adoption agencies, including the standards developed by the council on accreditation for children and family services. The department shall brief the legislature by January 1, 2007, on recommendations related to accreditation standards and reducing any barriers that may exist pertaining to the adoption of children who are dependents of the state of Washington.

Sec. 4 RCW 26.33.400 and 1991 c 136 s 6 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, "advertisement" means communication by newspaper, radio, television, handbills, placards or other print, broadcast, or the electronic medium. This definition applies throughout this section.

(2) No person or entity shall cause to be published for circulation, or broadcast on a radio or television station, within the geographic borders of this state, an advertisement of a child or children offered or wanted for adoption, or shall hold himself or herself out through such advertisement as having the ability to place, locate, dispose, or receive a child or children for adoption unless such person or entity is:

(a) A duly authorized agent, contractee, or employee of the department or a children's agency or institution licensed by the department to care for and place children;

(b) A person who has a completed preplacement report as set forth in RCW 26.33.190 (1) and (2) or chapter 26.34 RCW with a favorable recommendation as to the fitness of the person to be an adoptive parent, or such person's duly authorized uncompensated agent, or such person's attorney who is licensed to practice in the state. Verification of compliance with the requirements of this section shall consist of a written declaration by the person or entity who prepared the preplacement report.

Nothing in this section prohibits an attorney licensed to practice in Washington state from advertising his or her availability to practice or provide services related to the adoption of children.

(3)(a) A violation of subsection (2) of this section is a matter affecting the public interest ((~~for the purpose of applying chapter 19.86 RCW. A violation of subsection (2) of this section is not reasonable in relation to the development and preservation of business. A violation of subsection (2) of this section~~)) and constitutes an unfair or deceptive act or practice in trade or commerce for the purpose of applying chapter 19.86 RCW.

(b) The attorney general may bring an action in the name of the state against any person violating the provisions of this section in accordance with the provisions of RCW 19.86.080.

(c) Nothing in this section applies to any radio or television station or any publisher, printer, or distributor of any newspaper, magazine, billboard, or other advertising medium which accepts advertising in good faith without knowledge of its violation of any provision of this section after an attempt to verify the advertising is in compliance with this section.

NEW SECTION. **Sec. 5** RCW 26.33.410 (Advertisements -- Exemption) and 1989 c 255 s 2 are each repealed."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Franklin moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6635.

Senator Franklin spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Franklin that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6635.

The motion by Senator Franklin carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6635 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6635, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6635, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Oke - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 6635, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:
The House has passed SENATE BILL NO. 6826, with the following amendments{s} 6826 AMH FIN H5488.1.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.16.050 and 2004 c 153 s 308 are each amended to read as follows:

In computing tax there may be deducted from the gross income the following items:

(1) Amounts derived by municipally owned or operated public service businesses, directly from taxes levied for the support or maintenance thereof: PROVIDED, That this section shall not be construed to exempt service charges which are spread on the property tax rolls and collected as taxes;

(2) Amounts derived from the sale of commodities to persons in the same public service business as the seller, for resale as such within this state. This deduction is allowed only with respect to water distribution, gas distribution or other public service businesses which furnish water, gas or any other commodity in the performance of public service businesses;

(3) Amounts actually paid by a taxpayer to another person taxable under this chapter as the latter's portion of the consideration due for services furnished jointly by both, if the total amount has been credited to and appears in the gross income reported for tax by the former;

(4) The amount of cash discount actually taken by the purchaser or customer;

(5) The amount of bad debts, as that term is used in 26 U.S.C. Sec. 166, as amended or renumbered as of January 1, 2003, on which tax was previously paid under this chapter;

(6) Amounts derived from business which the state is prohibited from taxing under the Constitution of this state or the Constitution or laws of the United States;

(7) Amounts derived from the distribution of water through an irrigation system, for irrigation purposes;

(8) Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this state, or from points of origin outside this state to final destination in this state, with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination; and amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or ship side on tidewater or navigable tributaries thereto from which such commodities are forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations: PROVIDED, That no deduction will be allowed when the point of origin and the point of delivery to such an export elevator, wharf, dock, or ship side are located within the corporate limits of the same city or town;

(9) Amounts derived from the production, sale, or transfer of electrical energy for resale within or outside the state or for consumption outside the state;

(10) Amounts derived from the distribution of water by a nonprofit water association and used for capital improvements by that nonprofit water association;

(11) Amounts paid by a sewerage collection business taxable under RCW 82.16.020(1)(a) to a person taxable under chapter 82.04 RCW for the treatment or disposal of sewage;

(12) Amounts derived from fees or charges imposed on persons for transit services provided by a public transportation agency. For the purposes of this subsection, "public transportation agency" means a municipality, as defined in RCW 35.58.272, and urban public transportation systems, as defined in RCW 47.04.082. Public transportation agencies shall spend an amount equal to the reduction in tax provided by this tax deduction solely to adjust routes to improve access for citizens using food banks and senior citizen services or to extend or add new routes to assist low-income citizens and seniors."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Esser moved that the Senate concur in the House amendment(s) to Senate Bill No. 6826.

MOTION

The President declared the question before the Senate to be the motion by Senator Esser that the Senate concur in the House amendment(s) to Senate Bill No. 6826.

The motion by Senator Esser carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6826 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6826, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6826, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Oke - 1

SENATE BILL NO. 6826, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

SECOND READING

HOUSE BILL NO. 2671, by Representatives Ericks, Kessler, Simpson, Clibborn, Morrell, Springer, Dunn and Wallace

Providing excise tax relief by modifying due dates and eliminating an assessment penalty.

The measure was read the second time.

MOTION

Senator Prentice moved that the following committee striking amendment by the Committee on Ways & Means be not adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.32.045 and 2003 1st sp.s. c 13 s 8 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within ((~~twenty~~)) twenty-five days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(3) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(4) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns if the following conditions are met:

(a) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than twenty-eight thousand dollars per year;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twenty-four thousand dollars per year; and

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect.

Sec. 2. RCW 82.23B.020 and 2003 1st sp.s. c 13 s 9 are each amended to read as follows:

(1) An oil spill response tax is imposed on the privilege of receiving crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine terminal from a waterborne vessel or barge at the rate of one cent per barrel of crude oil or petroleum product received.

(2) In addition to the tax imposed in subsection (1) of this section, an oil spill administration tax is imposed on the privilege of receiving crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine terminal from a waterborne vessel or barge at the rate of four cents per barrel of crude oil or petroleum product.

(3) The taxes imposed by this chapter shall be collected by the marine terminal operator from the taxpayer. If any person charged with collecting the taxes fails to bill the taxpayer for the taxes, or in the alternative has not notified the taxpayer in writing of the imposition of the taxes, or having collected the taxes, fails to pay them to the department in the manner prescribed by this chapter, whether such failure is the result of the person's own acts or the result of acts or conditions beyond the person's control, he or she shall, nevertheless, be personally liable to the state for the amount of the taxes. Payment of the taxes by the owner to a marine terminal operator shall relieve the owner from further liability for the taxes.

(4) Taxes collected under this chapter shall be held in trust until paid to the department. Any person collecting the taxes who appropriates or converts the taxes collected shall be guilty of a gross misdemeanor if the money required to be collected is not available for payment on the date payment is due. The taxes required by this chapter to be collected shall be stated separately from other charges made by the marine terminal operator in any invoice or other statement of account provided to the taxpayer.

(5) If a taxpayer fails to pay the taxes imposed by this chapter to the person charged with collection of the taxes and the person charged with collection fails to pay the taxes to the department, the department may, in its discretion, proceed directly against the taxpayer for collection of the taxes.

(6) The taxes shall be due from the marine terminal operator, along with reports and returns on forms prescribed by the department, within ((~~twenty~~)) twenty-five days after the end of the month in which the taxable activity occurs.

(7) The amount of taxes, until paid by the taxpayer to the marine terminal operator or to the department, shall constitute a debt from the taxpayer to the marine terminal operator. Any person required to collect the taxes under this chapter who, with intent to violate the provisions of this chapter, fails or refuses to do so as required and any taxpayer who refuses to pay any taxes due under this chapter, shall be guilty of a misdemeanor as provided in chapter 9A.20 RCW.

(8) Upon prior approval of the department, the taxpayer may pay the taxes imposed by this chapter directly to the department. The department shall give its approval for direct payment under this section whenever it appears, in the department's judgment, that direct payment will enhance the administration of the taxes imposed under this chapter. The department shall provide by rule for the issuance of a direct payment certificate to any taxpayer qualifying for direct payment of the taxes. Good faith acceptance of a direct payment certificate by a terminal operator shall relieve the marine terminal operator from any liability for the collection or payment of the taxes imposed under this chapter.

(9) All receipts from the tax imposed in subsection (1) of this section shall be deposited into the state oil spill response account. All receipts from the tax imposed in subsection (2) of this section shall be deposited into the oil spill prevention account.

(10) Within forty-five days after the end of each calendar quarter, the office of financial management shall determine the balance of the oil spill response account as of the last day of that calendar quarter. Balance determinations by the office of financial management under this section are final and shall not be used to challenge the validity of any tax imposed under this chapter. The office of financial management shall promptly notify the departments of revenue and ecology of the account balance once a determination is made. For each subsequent calendar quarter, the tax imposed by subsection (1) of this section shall be imposed during the entire calendar quarter unless:

(a) Tax was imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than nine million dollars; or

(b) Tax was not imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than eight million dollars.

Sec. 3. RCW 82.27.060 and 2003 1st sp.s. c 13 s 10 are each amended to read as follows:

The taxes levied by this chapter shall be due for payment monthly and remittance therefor shall be made within ((~~twenty~~)) twenty-five days after the end of the month in which the taxable activity occurs. The taxpayer on or before the due date shall make out a signed return, setting out such information as the department of revenue may require, including the gross measure of the tax, any deductions, credits, or exemptions claimed, and the amount of tax due for the preceding monthly period, which amount shall be transmitted to the department along with the return.

The department may relieve any taxpayer from the obligation of filing a monthly return and may require the return to cover other periods, but in no event may periodic returns be filed for a period greater than one year. In such cases tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

Sec. 4. RCW 82.32.085 and 1990 c 69 s 3 are each amended to read as follows:

(1) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

((~~The electronic funds transfer is to be completed so that the state receives collectible funds on or before the next banking day following the due date.~~))

(2)(a) Except as provided in (b) of this subsection, the electronic funds transfer is to be completed so that the state receives collectible funds on or before the next banking day following the due date.

(b) A remittance made using the automated clearinghouse debit method will be deemed to be received on the due date if the electronic funds transfer is initiated on or before 11:59 p.m. pacific time on the due date with an effective payment date on or before the next banking day following the due date.

(3)(a) The department shall adopt rules necessary to implement the provisions of RCW 82.32.080 and this section. The rules shall include but are not limited to: (((~~(1)~~))) (i) Coordinating the filing of tax returns with payment by electronic funds transfer; (((~~(2)~~))) (ii) form and content of electronic funds transfer; (((~~(3)~~))) (iii) voluntary use of electronic funds transfer with permission of the department; (((~~(4)~~))) (iv) use of commonly accepted means of electronic funds transfer; (((~~(5)~~))) (v) means of crediting and recording proof of payment; and (((~~(6)~~))) (vi) means of correcting errors in transmission.

(b) Any changes in the threshold of tax shall be implemented with a separate rule-making procedure.

NEW SECTION. **Sec. 5.** (1) The legislature recognizes the following with respect to the payment of excise taxes to the department of revenue by electronic funds transfer:

(a) Taxpayers required to pay their taxes by electronic funds transfer must do so through the use of either the automated clearinghouse debit method or automated clearinghouse credit method;

(b) For a remittance by electronic funds transfer to be considered timely, the transfer must be completed so that the state receives collectible funds on or before the next banking day following the due date;

(c) For the state to receive collectible funds on or before the next banking day following the due date, taxpayers using the automated clearinghouse debit method must initiate the transfer before 5:00 p.m. pacific time on the due date;

(d) The department of revenue receives information identifying the precise date and time the electronic funds transfer is initiated when a taxpayer uses the debit method; and

(e) The department receives information identifying only the date that the state receives collectible funds when a taxpayer uses the automated clearinghouse credit method.

(2) The legislature therefore finds that a remittance made using the automated clearinghouse debit method should be deemed to be received on the due date if the transfer is initiated on or before 11:59 p.m. pacific time on the due date with an effective payment date on or before the next banking day following the due date. The legislature further finds that because the department does not receive information about when an electronic funds transfer is initiated when a taxpayer uses the automated clearinghouse credit method, such transfers must be completed so that the state receives collectible funds on or before the next banking day following the due date.

Sec. 6. RCW 82.32.105 and 1998 c 304 s 13 are each amended to read as follows:

(1) If the department of revenue finds that the payment by a taxpayer of a tax less than that properly due or the failure of a taxpayer to pay any tax by the due date was the result of circumstances beyond the control of the taxpayer, the department of revenue shall waive or cancel any penalties imposed under this chapter with respect to such tax.

(2) The department shall waive or cancel the penalty imposed under RCW 82.32.090(1) when the circumstances under which the delinquency occurred do not qualify for waiver or cancellation under subsection (1) of this section if:

(a) The taxpayer requests the waiver for a tax return required to be filed under RCW 82.32.045, 82.14B.061, 82.23B.020, 82.27.060, 82.29A.050, or 84.33.086; and

(b) The taxpayer has timely filed and remitted payment on all tax returns due for that tax program for a period of

twenty-four months immediately preceding the period covered by the return for which the waiver is being requested.

(3) The department shall waive or cancel the initial five percent assessment penalty imposed under RCW 82.32.090(2) when the circumstances under which the deficiency occurred do not qualify for waiver or cancellation under subsection (1) of this section if:

(a) The taxpayer requests the waiver for a single tax return required to be filed under RCW 82.32.045, 82.14B.061, 82.23B.020, 82.27.060, 82.29A.050, or 84.33.086, whether or not the assessment covers a single tax return or multiple tax returns;

(b) The penalty is not included in an assessment involving more than a twelve-month period; and

(c) The amount of underpaid tax included in the assessment is no more than twenty percent of the total tax due for the period or periods included in the assessment.

The waiver in this subsection shall only be granted once in a twelve-month period.

(4) The department shall waive or cancel interest imposed under this chapter if:

(a) The failure to timely pay the tax was the direct result of written instructions given the taxpayer by the department; or

(b) The extension of a due date for payment of an assessment of deficiency was not at the request of the taxpayer and was for the sole convenience of the department.

((~~(4)~~)) (5) The department of revenue shall adopt rules for the waiver or cancellation of penalties and interest imposed by this chapter.

NEW SECTION. **Sec. 7.** (1) Sections 1 through 3 of this act apply to returns due after July 31, 2006.

(2) Section 4 of this act applies to payments due after July 31, 2006.

(3) Section 6 of this act only applies to assessments originally issued after June 30, 2006.

NEW SECTION. **Sec. 8.** This act does not affect any existing right acquired or liability or obligation incurred under the sections amended in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections.

NEW SECTION. **Sec. 9.** (1) Sections 1 through 4 of this act take effect August 1, 2006.

(2) Sections 6 and 7 of this act take effect July 1, 2006."

On page 1, line 2 of the title, after "penalty;" strike the remainder of the title and insert "amending RCW 82.32.045, 82.23B.020, 82.27.060, 82.32.085, and 82.32.105; creating new sections; and providing effective dates."

The President declared the question before the Senate to be the motion by Senator Prentice to not adopt the committee striking amendment by the Committee on Ways & Means to House Bill No. 2671.

The motion by Senator Prentice carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Prentice moved that the following striking amendment by Senators Prentice and Doumit be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.32.045 and 2003 1st sp.s. c 13 s 8 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, payments of the taxes imposed under chapters 82.04, 82.08, 82.12, 82.14, and 82.16 RCW, along with reports and returns on forms prescribed by the department, are due monthly within ((~~twenty~~)) twenty-five days after the end of the month in which the taxable activities occur.

(2) The department of revenue may relieve any taxpayer or class of taxpayers from the obligation of remitting monthly and may require the return to cover other longer reporting periods, but in no event may returns be filed for a period greater than one year. For these taxpayers, tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

(3) The department of revenue may also require verified annual returns from any taxpayer, setting forth such additional information as it may deem necessary to correctly determine tax liability.

(4) Notwithstanding subsections (1) and (2) of this section, the department may relieve any person of the requirement to file returns if the following conditions are met:

(a) The person's value of products, gross proceeds of sales, or gross income of the business, from all business activities taxable under chapter 82.04 RCW, is less than twenty-eight thousand dollars per year;

(b) The person's gross income of the business from all activities taxable under chapter 82.16 RCW is less than twenty-four thousand dollars per year; and

(c) The person is not required to collect or pay to the department of revenue any other tax or fee which the department is authorized to collect.

Sec. 2. RCW 82.23B.020 and 2003 1st sp.s. c 13 s 9 are each amended to read as follows:

(1) An oil spill response tax is imposed on the privilege of receiving crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine terminal from a waterborne vessel or barge at the rate of one cent per barrel of crude oil or petroleum product received.

(2) In addition to the tax imposed in subsection (1) of this section, an oil spill administration tax is imposed on the privilege of receiving crude oil or petroleum products at a marine terminal within this state from a waterborne vessel or barge operating on the navigable waters of this state. The tax imposed in this section is levied upon the owner of the crude oil or petroleum products immediately after receipt of the same into the storage tanks of a marine terminal from a waterborne vessel or barge at the rate of four cents per barrel of crude oil or petroleum product.

(3) The taxes imposed by this chapter shall be collected by the marine terminal operator from the taxpayer. If any person charged with collecting the taxes fails to bill the taxpayer for the taxes, or in the alternative has not notified the taxpayer in writing of the imposition of the taxes, or having collected the taxes, fails to pay them to the department in the manner prescribed by this chapter, whether such failure is the result of the person's own acts or the result of acts or conditions beyond the person's control, he or she shall, nevertheless, be personally liable to the state for the amount of the taxes. Payment of the taxes by the owner to a marine terminal operator shall relieve the owner from further liability for the taxes.

(4) Taxes collected under this chapter shall be held in trust until paid to the department. Any person collecting the taxes who appropriates or converts the taxes collected shall be guilty of a gross misdemeanor if the money required to be collected is not available for payment on the date payment is due. The taxes required by this chapter to be collected shall be stated separately from other charges made by the marine terminal operator in any invoice or other statement of account provided to the taxpayer.

(5) If a taxpayer fails to pay the taxes imposed by this chapter to the person charged with collection of the taxes and the person charged with collection fails to pay the taxes to the department, the department may, in its discretion, proceed directly against the taxpayer for collection of the taxes.

(6) The taxes shall be due from the marine terminal operator, along with reports and returns on forms prescribed by the department, within ((~~twenty~~)) twenty-five days after the end of the month in which the taxable activity occurs.

(7) The amount of taxes, until paid by the taxpayer to the marine terminal operator or to the department, shall constitute a debt from the taxpayer to the marine terminal operator. Any person required to collect the taxes under this chapter who, with intent to violate the provisions of this chapter, fails or refuses to do so as required and any taxpayer who refuses to pay any taxes due under this chapter, shall be guilty of a misdemeanor as provided in chapter 9A.20 RCW.

(8) Upon prior approval of the department, the taxpayer may pay the taxes imposed by this chapter directly to the department. The department shall give its approval for direct payment under this section whenever it appears, in the department's judgment, that direct payment will enhance the administration of the taxes imposed under this chapter. The department shall provide by rule for the issuance of a direct payment certificate to any taxpayer qualifying for direct payment of the taxes. Good faith acceptance of a direct payment certificate by a terminal operator shall relieve the marine terminal operator from any liability for the collection or payment of the taxes imposed under this chapter.

(9) All receipts from the tax imposed in subsection (1) of this section shall be deposited into the state oil spill response account. All receipts from the tax imposed in subsection (2) of this section shall be deposited into the oil spill prevention account.

(10) Within forty-five days after the end of each calendar quarter, the office of financial management shall determine the balance of the oil spill response account as of the last day of that calendar quarter. Balance determinations by the office of financial management under this section are final and shall not be used to challenge the validity of any tax imposed under this chapter. The office of financial management shall promptly notify the departments of revenue and ecology of the account balance once a determination is made. For each subsequent calendar quarter, the tax imposed by subsection (1) of this section shall be imposed during the entire calendar quarter unless:

(a) Tax was imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than nine million dollars; or

(b) Tax was not imposed under subsection (1) of this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than eight million dollars.

Sec. 3. RCW 82.27.060 and 2003 1st sp.s. c 13 s 10 are each amended to read as follows:

The taxes levied by this chapter shall be due for payment monthly and remittance therefor shall be made within ((~~twenty~~)) twenty-five days after the end of the month in which the taxable activity occurs. The taxpayer on or before the due date shall make out a signed return, setting out such information as the department of revenue may require, including the gross measure of the tax, any deductions, credits, or exemptions claimed, and the amount of tax due for the preceding monthly period, which amount shall be transmitted to the department along with the return.

The department may relieve any taxpayer from the obligation of filing a monthly return and may require the return to cover other periods, but in no event may periodic returns be filed for a period greater than one year. In such cases tax payments are due on or before the last day of the month next succeeding the end of the period covered by the return.

Sec. 4. RCW 82.32.085 and 1990 c 69 s 3 are each amended to read as follows:

(1) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

((~~The electronic funds transfer is to be completed so that the state receives collectible funds on or before the next banking day following the due date.~~))

(2)(a) Except as provided in (b) of this subsection, the electronic funds transfer is to be completed so that the state receives collectible funds on or before the next banking day following the due date.

(b) A remittance made using the automated clearinghouse debit method will be deemed to be received on the due date if the electronic funds transfer is initiated on or before 11:59 p.m. pacific time on the due date with an effective payment date on or before the next banking day following the due date.

(3)(a) The department shall adopt rules necessary to implement the provisions of RCW 82.32.080 and this section. The rules shall include but are not limited to: ((~~(1)~~)) (i) Coordinating the filing of tax returns with payment by electronic funds transfer; ((~~(2)~~)) (ii) form and content of electronic funds transfer; ((~~(3)~~)) (iii) voluntary use of electronic funds transfer with permission of the department; ((~~(4)~~)) (iv) use of commonly accepted means of electronic funds transfer; ((~~(5)~~)) (v) means of crediting and recording proof of payment; and ((~~(6)~~)) (vi) means of correcting errors in transmission.

(b) Any changes in the threshold of tax shall be implemented with a separate rule-making procedure.

NEW SECTION. **Sec. 5.** (1) The legislature recognizes the following with respect to the payment of excise taxes to the department of revenue by electronic funds transfer:

(a) Taxpayers required to pay their taxes by electronic funds transfer must do so through the use of either the automated clearinghouse debit method or automated clearinghouse credit method;

(b) For a remittance by electronic funds transfer to be considered timely, the transfer must be completed so that the state receives collectible funds on or before the next banking day following the due date;

(c) For the state to receive collectible funds on or before the next banking day following the due date, taxpayers using the automated clearinghouse debit method must initiate the transfer before 5:00 p.m. pacific time on the due date;

(d) The department of revenue receives information identifying the precise date and time the electronic funds transfer is initiated when a taxpayer uses the debit method; and

(e) The department receives information identifying only the date that the state receives collectible funds when a taxpayer uses the automated clearinghouse credit method.

(2) The legislature therefore finds that a remittance made using the automated clearinghouse debit method should be deemed to be received on the due date if the transfer is initiated on or before 11:59 p.m. pacific time on the due date with an effective payment date on or before the next banking day following the due date. The legislature further finds that because the department does not receive information about when an electronic funds transfer is initiated when a taxpayer uses the automated clearinghouse credit method, such transfers must be completed so that the state receives collectible funds on or before the next banking day following the due date.

Sec. 6. RCW 82.32.090 and 2003 1st sp.s. c 13 s 13 are each amended to read as follows:

(1) If payment of any tax due on a return to be filed by a taxpayer is not received by the department of revenue by the due date, there shall be assessed a penalty of five percent of the amount of the tax; and if the tax is not received on or before the last day of the month following the due date, there shall be

assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if the tax is not received on or before the last day of the second month following the due date, there shall be assessed a total penalty of twenty-five percent of the amount of the tax under this subsection. No penalty so added shall be less than five dollars.

(2) If the department of revenue determines that any tax ((~~is due~~)) has been substantially underpaid, there shall be assessed a penalty of five percent of the amount of the tax determined by the department to be due((~~, and~~)). If payment of any tax determined by the department to be due is not received by the department by the due date specified in the notice, or any extension thereof, there shall be assessed a total penalty of fifteen percent of the amount of the tax under this subsection; and if ((~~the~~)) payment of any tax determined by the department to be due is not received on or before the thirtieth day following the due date specified in the notice of tax due, or any extension thereof, there shall be assessed a total penalty of twenty-five percent of the amount of the tax under this subsection. No penalty so added shall be less than five dollars. As used in this section, "substantially underpaid" means that the taxpayer has paid less than eighty percent of the amount of tax determined by the department to be due for all of the types of taxes included in, and for the entire period of time covered by, the department's examination, and the amount of underpayment is at least one thousand dollars.

(3) If a warrant be issued by the department of revenue for the collection of taxes, increases, and penalties, there shall be added thereto a penalty of ten percent of the amount of the tax, but not less than ten dollars.

(4) If the department finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the department a registration certificate as required by RCW 82.32.030, the department shall impose a penalty of five percent of the amount of tax due from that person for the period that the person was not registered as required by RCW 82.32.030. The department shall not impose the penalty under this subsection (4) if a person who has engaged in business taxable under this title without first having registered as required by RCW 82.32.030, prior to any notification by the department of the need to register, obtains a registration certificate from the department.

(5) If the department finds that all or any part of a deficiency resulted from the disregard of specific written instructions as to reporting or tax liabilities, the department shall add a penalty of ten percent of the amount of the additional tax found due because of the failure to follow the instructions. A taxpayer disregards specific written instructions when the department of revenue has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless the department has not issued final instructions because the matter is under appeal pursuant to this chapter or departmental regulations. The department shall not assess the penalty under this section upon any taxpayer who has made a good faith effort to comply with the specific written instructions provided by the department to that taxpayer. Specific written instructions may be given as a part of a tax assessment, audit, determination, or closing agreement, provided that such specific written instructions shall apply only to the taxpayer addressed or referenced on such documents. Any specific written instructions by the department of revenue shall be clearly identified as such and shall inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection.

(6) If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable hereunder, a further penalty of fifty percent of the additional tax found to be due shall be added.

(7) The penalties imposed under subsections (1) through (4) of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.

(8) The department of revenue may not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.

(9) For the purposes of this section, "return" means any document a person is required by the state of Washington to file to satisfy or establish a tax or fee obligation that is administered or collected by the department of revenue, and that has a statutorily defined due date.

NEW SECTION. **Sec. 7.** (1) Sections 1 through 3 of this act apply to returns due after July 31, 2006.

(2) Section 4 of this act applies to payments due after July 31, 2006.

(3) Section 6 of this act only applies to assessments originally issued after June 30, 2006.

NEW SECTION. **Sec. 8.** This act does not affect any existing right acquired or liability or obligation incurred under the sections amended in this act or under any rule or order adopted under those sections, nor does it affect any proceeding instituted under those sections.

NEW SECTION. **Sec. 9.** (1) Sections 1 through 4 of this act take effect August 1, 2006.

(2) Sections 6 and 7 of this act take effect July 1, 2006."

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

MOTION

On motion of Senator McCaslin, Senator Deccio was excused.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Prentice and Doumit to House Bill No. 2671.

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

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2671 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 2671 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2671 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators Deccio and Oke - 2

HOUSE BILL NO. 2671 as amended by the Senate, having received the constitutional majority, was declared passed. There

being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2688, by House Committee on Appropriations (originally sponsored by Representatives Fromhold, Conway, Lovick, Kenney, Quall, Simpson, Ormsby, Moeller and Ericks)

Addressing the law enforcement officers' and fire fighters' retirement system plan 1.

The measure was read the second time.

MOTION

Senator Fraser moved that the following committee amendment by the Committee on Ways & Means be adopted.

On page 2, after line 10, strike section 2.

On page 3, after line 31, insert the following:

"(5) The join task force will evaluate the June 30, 2000 suspension of employer and member contributions in the law enforcement officers' and fire fighters' retirement system plan 1. The joint task force shall make its recommendations regarding employer and member contributions utilizing the most recent valuation study for the plan."

Renumber the sections consecutively and correct any internal references accordingly.

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

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Ways & Means to Substitute House Bill No. 2688.

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

MOTION

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

On page 1, on line 2 of the title, after "41.26.100", strike " and 41.26.080".

MOTION

On motion of Senator Fraser, the rules were suspended, Substitute House Bill No. 2688 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2688 as amended by the Senate.

POINT OF ORDER

Senator Honeyford: "I do not believe this bill is properly before us. According to Senate Concurrent Resolution No. 8414, Friday, March 3 was the final day consider house bills, unless the bill is necessary to implement the budget. House Bill No. 2688 did not pass the Senate by March 3 and has no budget implications. Therefore, I believe it is out of order."

MOTION

On motion of Senator Eide, further consideration of Substitute House Bill No. 2688 was deferred and the bill held its place on the third reading calendar.

MOTION

At 6:00 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

EVENING SESSION

The Senate was called to order at 7:37 p.m. by President Owen.

MOTION

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

REPORTS OF STANDING COMMITTEES

March 7, 2006

2SHB 2583 Prime Sponsor, Committee on Appropriations: Regarding community and technical college part-time academic employee health benefits. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Doumit, Vice Chair, Operating Budget; Fairley, Kohl-Welles, Pridemore, Rasmussen, Regala and Thibaudeau

Passed to Committee on Rules for second reading.

March 7, 2006

ESHB 2925 Prime Sponsor, Committee on Appropriations: Concerning assisted living facility Medicaid minimum occupancy of fifty percent or greater. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Doumit, Vice Chair, Operating Budget; Fairley, Kohl-Welles, Pridemore, Rasmussen, Regala and Thibaudeau

Passed to Committee on Rules for second reading.

REPORTS OF STANDING COMMITTEES
GUBERNATORIAL APPOINTMENTS

March 7, 2006

SGA 9409 CAROL MOSER, appointed January 9, 2006, for the term ending June 30, 2011, as Member of the Transportation Commission. Reported by Committee on Transportation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Haugen, Chair; Jacobsen, Vice Chair; Benson, Berkey, Eide, Kastama, Mulliken, Oke and Spanel

Passed to Committee on Rules for second reading.

March 7, 2006

SGA 9430 DOUG MACDONALD, appointed February 22, 2006, for the term ending at the governor's pleasure, as Secretary of the Department of Transportation. Reported by Committee on Transportation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Haugen, Chair; Jacobsen, Vice Chair; Benson, Berkey, Eide, Kastama, Mulliken, Oke and Spanel

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, the rules were suspended and the measures and appointments listed on the Standing Committee Report and House Bill No. 3317 which has been previously held at the desk on March 6, 2006 were placed on the second reading calendar.

MOTION

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

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 6851, with the following amendments{s} 6851-S AMH HOUS DUPU 002, 6851-S AMH HOLJ DUPU 004.

On page 1, line 19, after "days" insert "of the date notice was given to all tenants as required by RCW 59.20.080"

On page 4, after line 32, insert:

"NEW SECTION. **Sec. 3.** The department of community, trade and economic development, working in collaboration with mobile home park associations and other interested parties, shall provide notice of this act to mobile or manufactured home landlords or park owners by mailing written notification to all known park landlords and owners, and by other reasonable means. Notification must take place before July 1, 2006.

NEW SECTION. **Sec. 4.** With respect to written mobile or manufactured home space rental agreements in effect on the effective date of this act, section 2 of this act applies prospectively when the term of the tenancy under the agreement is renewed."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Fairley moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6851.

Senator Fairley spoke in favor of the motion.

MOTION

On motion of Senator Schoesler, Senators Parlette, McCaslin and Stevens were excused.

MOTION

The President declared the question before the Senate to be the motion by Senator Fairley that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6851.

The motion by Senator Fairley carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6851 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6851, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6851, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Oke - 1

SUBSTITUTE SENATE BILL NO. 6851, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:
The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6193, with the following amendments{s} 6193-S2 AMH HC H5388.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that people of color experience significant disparities from the general population in education, employment, healthy living conditions, access to health care, and other social determinants of health. The legislature intends to address barriers to gender-appropriate and culturally and linguistically appropriate health care and health education materials, including increasing the number of female and minority health care providers, through expanded recruiting, education, and retention programs. The legislature finds that before developing a work force that is representative of the diversity of the state's population, relevant and accurate data on health care professionals, students in health care professions, and recipients of health services must first be collected.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The department, in collaboration with the work force training and education coordinating board, shall distribute survey questions for the purpose of gathering data related to work force supply and demographics to all health care providers who hold a license to practice a health profession. The department shall adopt a schedule for distributing surveys by profession so that each profession is surveyed every two years. In developing the survey, the department shall seek advice from researchers that are likely to use the survey data.

(2)(a) At a minimum, the survey shall include questions related to understanding the following characteristics of individuals in the health care work force:

(i) Specialty;

(ii) Birthdate and gender;

(iii) Race and ethnicity;

(iv) Hours in practice per week;

(v) Practice statistics, including hours spent in direct patient care;

(vi) Zip codes of the location where the provider practices;

(vii) Years in practice, years in practice in Washington, location and years in practice in other jurisdictions;

(viii) Education and training background, including the location and types of education and training received; and

(ix) Type of facilities where the provider practices.

(b) The department may approve proposals for the distribution of surveys containing additional data elements to selected health care professions if it determines that there is a legitimate research interest in obtaining the information, the additional burden on members of the health care profession is not unreasonable, the effect on survey response rates is not unreasonable, and there are funds available. The department may accept funds through contracts, grants, donations, or other forms of contributions to support more detailed surveys.

(3) The department must make a public data set available that meets the confidentiality requirements of subsection (5) of this section. The department may respond to requests for data and other information from the registry for special studies and analysis pursuant to a data-sharing agreement. Any use of the data by the requestor must comply with the confidentiality requirements of subsection (5) of this section. The department may require requestors to pay any or all of the reasonable costs associated with such requests that may be approved.

(4) The failure to complete or return the survey may not be grounds to withhold, fail to renew, or revoke a license or to impose any other disciplinary sanctions against a credentialed health care provider.

(5) The department must process the surveys that it receives in such a way that the identity of individual providers remains confidential. Data elements related to the identification of individual providers are confidential and are exempt from RCW 42.56.040 through 42.56.570 and 42.17.350 through 42.17.450, except as provided in a data-sharing agreement approved by the department pursuant to subsection (3) of this section.

(6) By July 1, 2009, the department shall provide a report to the appropriate committees of the legislature on the effectiveness of using a survey to obtain information on the supply of health care professionals, the distribution and use of the information obtained by the surveys by employers and health professions education and training programs and the extent to which the surveys have alleviated identified shortages of trained health care providers.

NEW SECTION. **Sec. 3.** Section 1 of this act takes effect July 1, 2006.

NEW SECTION. **Sec. 4.** This act expires January 1, 2012."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Franklin moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6193.

Senator Franklin spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Franklin that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6193.

The motion by Senator Franklin carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6193 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6193, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6193, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Voting nay: Senator Pflug - 1

Excused: Senator Oke - 1

SECOND SUBSTITUTE SENATE BILL NO. 6193, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Honeyford that Substitute House Bill 2688 is not properly before the body because it is beyond the cutoff dates established by Senate Concurrent Resolution 8414, the President finds and rules as follows:

The plain language of the cutoff resolution clearly exempts budget-related measures from all of the cutoff dates set forth in the resolution. To determine if the measure before us is necessary to implement the budget, the President generally looks first to determine if the mechanics of the bill relate to the budget, and second, whether any budget references the measure itself.

The measure before us relates to LEOFF benefits and contribution rates. Although an argument can be made that this bill is related to the budget, its substance is in no way crucial to raising or spending money in such a way that it can truly be considered an integral and necessary part of the budget process. And, while it is possible that funding for the bill or its programs will be provided in the budget ultimately enacted, no versions of the budget to date reference this measure specifically.

As a result, the President concludes that this measure is not presently necessary for the budget and is beyond the cutoff dates set forth in Senate Concurrent Resolution 8414. For this reason, Senator Honeyford's point is well-taken, and the measure is not properly before the body for its consideration at this time."

MOTION

On motion of Senator Eide, further consideration of Substitute House Bill No. 2688 was deferred and the bill held its place on the third reading calendar.

MESSAGE FROM THE HOUSE

March 7, 2006

MR. PRESIDENT:

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

SUBSTITUTE HOUSE BILL NO. 2416,

SUBSTITUTE HOUSE BILL NO. 2695,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 3, 2006

MR. PRESIDENT:
The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6151, with the following amendments{s} 6151-S.E AMH LINV CALL 183.

On page 2, line 30, after "(2)" insert "(a) A water right holder choosing to not exercise a water right in accordance with the provisions of this section must provide notice to the department in writing within one hundred eighty days of such choice. The notice shall include the name of the water right holder and the number of the permit, certificate, or claim.

(b) When a water right holder chooses to discontinue nonuse under the provisions of this section, notice of such action must be provided to the department in writing. Notice is not required under this subsection (2)(b) for seasonal fluctuations in use if the right is not fully exercised as reflected in the notice provided under this subsection (2)(a) of this section.

(3) The provisions of this section relating to the nonuse of all or a portion of a water right are in addition to any other provisions relating to such nonuse under existing law.

(4)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Eide moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6151.

MOTION

The President declared the question before the Senate to be the motion by Senator Eide that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6151.

The motion by Senator Eide carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6151 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6151, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6151, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Oke - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 6151, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:
The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6197, with the following amendments{s} 6197-S2 AMH HC H5391.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 43.20 RCW to read as follows:

The legislature finds that women and people of color experience significant disparities from men and the general population in education, employment, healthful living conditions, access to health care, and other social determinants of health. The legislature finds that these circumstances coupled with lower, slower, and less culturally appropriate and gender appropriate access to needed medical care result in higher rates of morbidity and mortality for women and persons of color than observed in the general population. Health disparities are defined by the national institute of health as the differences in incidence, prevalence, mortality, and burden of disease and other adverse health conditions that exist among specific population groups in the United States.

It is the intent of the Washington state legislature to create the healthiest state in the nation by striving to eliminate health disparities in people of color and between men and women. In meeting the intent of this act, the legislature creates the governor's interagency coordinating council on health disparities. This council shall create an action plan and statewide policy to include health impact reviews that measure and address other social determinants of health that lead to disparities as well as the contributing factors of health that can have broad impacts on improving status, health literacy, physical activity, and nutrition.

Sec. 2. RCW 43.20.025 and 1989 1st ex.s. c 9 s 208 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Commissions" means the Washington state commission on African-American affairs established in chapter 43.113 RCW, the Washington state commission on Asian Pacific American affairs established in chapter 43.117 RCW, the Washington state commission on Hispanic affairs established in chapter 43.115 RCW, and the governor's office of Indian affairs.

(2) "Consumer representative" means any person who is not an elected official, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

((~~(2)~~)) (3) "Council" means the ((~~health care access and cost control~~)) governor's interagency coordinating council on health disparities, convened according to this chapter.

((~~(3)~~)) (4) "Department" means the department of health.

((~~(4)~~)) (5) "Health disparities" means the difference in incidence, prevalence, mortality, or burden of disease and other adverse health conditions, including lack of access to proven health care services that exists between specific population groups in Washington state.

(6) "Health impact review" means a review of a legislative or budgetary proposal completed according to the terms of this chapter that determines the extent to which the proposal improves or exacerbates health disparities.

(7) "Secretary" means the secretary of health, or the secretary's designee.

((~~(5)~~)) (8) "Local health board" means a health board created pursuant to chapter 70.05, 70.08, or 70.46 RCW.

((~~(6)~~)) (9) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW.

((~~(7)~~)) (10) "Social determinants of health" means those elements of social structure most closely shown to affect health and illness, including at a minimum, early learning, education, socioeconomic standing, safe housing, gender, incidence of violence, convenient and affordable access to safe opportunities for physical activity, healthy diet, and appropriate health care services.

(11) "State board" means the state board of health created under chapter 43.20 RCW.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.20 RCW to read as follows:

(1) In collaboration with staff whom the office of financial management may assign, and within funds made expressly available to the state board for these purposes, the state board shall assist the governor by convening and providing assistance to the council. The council shall include one representative from each of the following groups: Each of the commissions, the state board, the department, the department of social and health services, the employment security department, the department of community, trade, and economic development, the department of corrections, the health care authority, the department of labor and industries, the department of agriculture, the department of ecology, the higher education coordinating board, the office of the insurance commissioner, the office of the superintendent of public instruction, the department of early learning, the department of transportation, the state board for community and technical colleges, the work force training and education coordinating board, and two members of the public who will represent the interests of health care consumers. The council is a class one group under RCW 43.03.220. The two public members shall be paid per diem and travel expenses in accordance with RCW 43.03.050 and 43.03.060. The council shall reflect diversity in race, ethnicity, and gender. The governor or the governor's designee shall chair the council.

(2) The council shall promote and facilitate communication, coordination, and collaboration among relevant state agencies and communities of color, and the private sector and public sector, to address health disparities. The council shall conduct public hearings, inquiries, studies, or other forms of information gathering to understand how the actions of state government ameliorate or contribute to health disparities. All state agencies must cooperate with the council's efforts.

(3) The council with assistance from the state board, shall assess through public hearings, review of existing data, and other means, and recommend initiatives for improving the availability of culturally appropriate health literature and interpretive services within public and private health-related agencies.

(4) In order to assist with its work, the council shall establish advisory committees to include members from local communities.

(5) The advisory committee shall reflect diversity in race, ethnicity, and gender.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.20 RCW to read as follows:

The council shall consider in its deliberations and by 2012, create an action plan for eliminating health disparities. The action plan must address, but is not limited to, the following diseases, conditions, and health indicators: Diabetes, asthma, infant mortality, HIV/AIDS, heart disease, strokes, breast cancer, cervical cancer, prostate cancer, chronic kidney disease, sudden infant death syndrome (SIDS), mental health, women's health issues, smoking cessation, oral disease, and immunization rates of children and senior citizens. The action plan shall be updated biannually. The council shall meet as often as necessary but not less than six times per calendar year. The council shall report its progress with the action plan to the governor and the legislature no later than January 15, 2008. A second report shall be presented no later than January 15, 2010, and a third report from the council shall be presented to the governor and the legislature no later than January 15, 2012. Thereafter, the governor and legislature shall require progress updates from the council every four years in odd-numbered years. The action plan shall recognize the need for flexibility.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.20 RCW to read as follows:

The state board shall, to the extent that funds are available expressly for this purpose, complete health impact reviews, in collaboration with the council, and with assistance that shall be provided by any state agency of which the board makes a request.

(1) A health impact review may be initiated by a written request submitted according to forms and procedures proposed by the council and approved by the state board before December 1, 2006.

(2) Any state legislator or the governor may request a review of any proposal for a state legislative or budgetary change. Upon receiving a request for a health impact review from the governor or a member of the legislature during a legislative session, the state board shall deliver the health impact review to the requesting party in no more than ten days.

(3) The state board may limit the number of health impact reviews it produces to retain quality while operating within its available resources.

(4) A state agency may decline a request to provide assistance if complying with the request would not be feasible while operating within its available resources.

(5) Upon delivery of the review to the requesting party, it shall be a public document, and shall be available on the state board's web site.

(6) The review shall be based on the best available empirical information and professional assumptions available to the state board within the time required for completing the review. The review should consider direct impacts on health disparities as well as changes in the social determinants of health.

(7) The state board and the department shall collaborate to obtain any federal or private funding that may become available to implement the state board's duties under this chapter. If the department receives such funding, the department shall allocate it to the state board and affected agencies to implement its duties under this chapter, and any state general funds that may have been appropriated but are no longer needed by the state board shall lapse to the state general fund.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.20 RCW to read as follows:

The state board and the department shall collaborate to obtain any federal or private funding that may become available to implement the state board's duties under this chapter. If the department receives such funding, the department shall allocate it to the state board to implement its duties under this chapter, and any state general funds that may have been appropriated but are no longer needed by the state board shall lapse to the state general fund.

NEW SECTION. **Sec. 7.** A new section is added to chapter 44.28 RCW to read as follows:

The joint committee shall conduct a review of the governor's interagency coordinating council on health disparities and its functions. The review shall be substantially the same as a sunset review under chapter 43.131 RCW. The joint committee shall present its findings to appropriate committees of the legislature by December 1, 2016."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Franklin moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6197.

Senator Franklin spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Franklin that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6197.

The motion by Senator Franklin carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6197 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6197, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6197, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 38; Nays, 10; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Jacobsen, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 38

Voting nay: Senators Benson, Carrell, Hewitt, Honeyford, Johnson, McCaslin, Morton, Mulliken, Pflug and Schoesler - 10

Excused: Senator Oke - 1

SECOND SUBSTITUTE SENATE BILL NO. 6197, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2006

MR. PRESIDENT:
The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6326, with the following amendments{s} 6326-S2 AMH . . . . ENSL 048.

On page 3, after line 21, insert the following:

"(c) Preference shall be given to employers with fewer than fifty employees."

On page 4, after line 17, insert the following:

"NEW SECTION. **Sec. 6.** A new section is added to chapter 82.04 RCW to read as follows:

(1) The legislature finds that accountability and effectiveness are important aspects of setting tax policy. In order to make policy choices regarding the best use of limited state resources the legislature needs information on how a tax incentive is used.

(2) Each person claiming a tax credit under section 5 of this act shall report information to the department by filing a complete annual survey. The survey is due by March 31st of the year following any calendar year in which a tax credit under section 5 of this act is taken. The department may extend the due date for timely filing of annual surveys under this section as provided in RCW 82.32.590. The survey shall include the amount of tax credit taken. The survey shall also include the following information for employment positions in Washington:

(a) The number of total employment positions;

(b) Full-time, part-time, and temporary employment positions as a percent of total employment;

(c) The number of employment positions according to the following wage bands: Less than thirty thousand dollars; thirty thousand dollars or greater, but less than sixty thousand dollars; and sixty thousand dollars or greater. A wage band containing fewer than three individuals may be combined with another wage band; and

(d) The number of employment positions that have employer-provided medical, dental, and retirement benefits, by each of the wage bands.

The first survey filed under this subsection shall also include information for the twelve-month period immediately before first use of a tax incentive.

(3) The department may request additional information necessary to measure the results of the credit program, to be submitted at the same time as the survey.

(4) All information collected under this section, except the amount of the tax credit taken, is deemed taxpayer information under RCW 82.32.330. Information on the amount of tax credit taken is not subject to the confidentiality provisions of RCW 82.32.330.

(5) If a person fails to submit an annual survey under subsection (2) of this section by the due date of the report or any extension under RCW 82.32.590, the department shall declare the amount of taxes credited for the previous calendar year to be immediately due and payable. The department shall assess interest, but not penalties, on the amounts due under this section. The interest shall be assessed at the rate provided for delinquent taxes under this chapter, retroactively to the date the credit was claimed, and shall accrue until the taxes for which the credit was claimed are repaid. This information is not subject to the confidentiality provisions of RCW 82.32.330.

(6) The department shall use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers shall be included in any category. The department shall report these statistics to the legislature each year by September 1st.

(7) The department shall study the tax credit authorized in section 5 of this act. The department shall submit a report to the finance committee of the house of representatives and the ways and means committee of the senate by December 1, 2011. The report shall measure the effect of the credit on job creation, job retention, company growth, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

NEW SECTION. **Sec. 7.** RCW 82.32.590 and 2005 c 514 s 1001 are each amended to read as follows:

(1) If the department finds that the failure of a taxpayer to file an annual survey under RCW 82.04.4452 or section 6 of this actby the due date was the result of circumstances beyond the control of the taxpayer, the department shall extend the time for filing the survey. Such extension shall be for a period of thirty days from the date the department issues its written notification to the taxpayer that it qualifies for an extension under this section. The department may grant additional extensions as it deems proper.

(2) In making a determination whether the failure of a taxpayer to file an annual survey by the due date was the result of circumstances beyond the control of the taxpayer, the department shall be guided by rules adopted by the department for the waiver or cancellation of penalties when the underpayment or untimely payment of any tax was due to circumstances beyond the control of the taxpayer."

On page 5, beginning on line 1, strike all of section 7

On page 5, line 12, after "July 1," strike "2016" and insert "2012"

Renumber the remaining sections consecutively and correct any internal references accordingly

Correct the title

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Shin moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6326.

Senator Shin spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Shin that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6326.

The motion by Senator Shin carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6326 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6326, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6326, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Voting nay: Senator McCaslin - 1

Excused: Senator Oke - 1

SECOND SUBSTITUTE SENATE BILL NO. 6326, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:
The House has passed ENGROSSED SENATE BILL NO. 6741, with the following amendments{s} 6741.E AMH CFS FORR 075.

On page 3, beginning on line 13, after "services." srike everything through "forces." on line 15.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Stevens moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6741.

Senator Stevens spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Stevens that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6741.

The motion by Senator Stevens carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6741 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6741, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6741, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Oke - 1

ENGROSSED SENATE BILL NO. 6741, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 6540, with the following amendments{s} 6540-S AMH CL ZARO 005.

On page 5, beginning on line 17, after "of the application to" strike "churches, schools, and public institutions" and insert "((~~churches, schools, and public institutions~~)) public institutions identified by the board as appropriate to receive such notice, churches, and schools"
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6540.

Senator Kohl-Welles spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6540.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6540 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6540, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6540, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Oke - 1

SUBSTITUTE SENATE BILL NO. 6540, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2006

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6541, with the following amendments{s} 6541 AMH APP H5316.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) The legislature finds that:

(a) Over the past five years, Washington has received more than seven hundred million dollars from the tobacco master settlement agreement;

(b) While the state has securitized a portion of the moneys it was promised under the master settlement agreement, the remainder of the master settlement agreement payments is used to fund important health programs such as the state's basic health plan, children's health insurance, childhood vaccines, and public health;

(c) Litigation now pending in the state or filed in the future could result in damage awards against master settlement agreement signatories or their successors or affiliates that are so large that the defendants could obtain a stay of the execution of the judgment while they appeal only by declaring bankruptcy, rather than posting an appeal bond under state law;

(d) Should a master settlement agreement signatory declare bankruptcy, issues might be raised about whether that disrupts or jeopardizes the payments that fund important state programs;

(e) The legislature has the substantive obligation to raise revenue and to protect the financial well-being of the state and its citizens. Pursuant to that obligation, it is the legislature's responsibility to ensure the continued receipt of master settlement agreement funds to the maximum extent possible.

(2) Therefore, the legislature intends to place a maximum limit on the appeal bond a master settlement agreement signatory or a successor or affiliate of a master settlement agreement signatory can be required to post in litigation in order to stay execution of the judgment without being forced into bankruptcy while it exercises its right to appeal an adverse judgment.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.340 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, in order to secure and protect the moneys to be received as a result of the master settlement agreement in civil litigation under any legal theory involving a signatory, a successor of a signatory, or any affiliate of a signatory to the master settlement agreement, the supersedeas bond to be furnished in order to stay the execution of the judgment during the entire course of appellate review shall be set in accordance with applicable laws or court rules, except that the total bond that is required of all appellants collectively shall not exceed one hundred million dollars, regardless of the value of the judgment.

(2) If an appellee proves by a preponderance of the evidence that an appellant is dissipating assets outside the ordinary course of business to avoid the payment of a judgment, a court may require the appellant to post a bond in an amount up to the amount of the judgment.

NEW SECTION. **Sec. 3.** This act applies to all actions pending on or filed on or after the effective date of this section."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Senate Bill No. 6541.

Senator Prentice spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Senate Bill No. 6541.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6541 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6541, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6541, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Johnson, Kastama, Keiser, Kline, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker and Zarelli - 44

Voting nay: Senators Jacobsen, Kohl-Welles, Thibaudeau and Weinstein - 4

Excused: Senator Oke - 1

SENATE BILL NO. 6541, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2006

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 6806, with the following amendments{s} 6806-S AMH JJFL AMH5369.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** It is the intent of the legislature to study the advisability of providing to all recipients of protection orders, who are victims of domestic violence, wallet-size cards that would provide to law enforcement all information necessary to enforce the protection order.

NEW SECTION. **Sec. 2.** (1) The domestic violence hope card study committee is established to review the advisability of providing wallet-size cards bearing information regarding protection orders to victims of domestic violence within Washington state. The committee shall collaborate with the Washington state gender and justice commission and shall be composed of:

(a) Two senators, one from each caucus in the senate;

(b) Two representatives, one from each caucus in the house of representatives;

(c) One representative of the Washington state attorney general's office;

(d) One police chief appointed by the Washington association of sheriffs and police chiefs;

(e) One elected sheriff appointed by the Washington association of sheriffs and police chiefs;

(f) One representative of the Washington state patrol;

(g) One representative of the administrative office of the courts;

(h) One representative of a tribal government appointed by the governor;

(i) One representative of the Washington association of criminal defense lawyers;

(j) One representative of a statewide domestic violence advocacy group appointed by the governor;

(k) One representative who is an advocate for domestic violence victims on tribal lands appointed by the governor;

(l) One representative of the office of crime victims advocacy;

(m) One representative of the Washington association of prosecuting attorneys; and

(n) One representative of the Washington state association of county clerks.

(2) The committee shall review and analyze hope card programs operating in Washington state and other states. Specifically, the committee shall review:

(a) The practicality of requiring the statewide distribution of wallet-size cards to victims of domestic violence that document the existence of a protection order and provide identifying information regarding the respondent, including a photograph, and contents of a protection order in addition to contact information for the victim to utilize the court system, gain access to domestic violence services, and contact law enforcement;

(b) The information required to be provided to victims of domestic violence under current law;

(c) Whether victims of domestic violence are receiving this information;

(d) Whether any additional information should be included on the cards provided to domestic violence victims;

(e) Costs, administrative, and capital equipment issues involved with the implementation of such a program;

(f) How nonstate funds could be utilized to pay for the costs involved in implementation of such a program;

(g) How such a program could be implemented statewide;

(h) Confidentiality, privacy, and safety concerns that may arise in the implementation of such a program; and

(i) Any other issues the committee finds relevant to the distribution of hope cards to victims of domestic violence.

(3) Staff support shall be provided by the office of crime victims advocacy.

(4) Legislative members of the study committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) A committee report, containing findings and proposed legislation, if any, shall be delivered to the full legislature not later than December 31, 2006.

NEW SECTION. **Sec. 3.** This act expires June 30, 2007."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Esser moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6806.

Senator Esser spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Esser that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6806.

The motion by Senator Esser carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6806 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6806, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6806, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Oke - 1

SUBSTITUTE SENATE BILL NO. 6806, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:
The House has passed SENATE BILL NO. 6731, with the following amendments{s} 6731 AMH CL FROS 007.

On page 2, line 9, after "be" insert "patronizing a prostitute or promoting"

On page 2, line 23, after "the" strike "ability" and insert "availability"

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Senate Bill No. 6731.

Senator Kohl-Welles spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Senate Bill No. 6731.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6731 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6731, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6731, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 48

Excused: Senator Oke - 1

SENATE BILL NO. 6731, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 3, 2006

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 6775, with the following amendments{s} 6775-S AMH CJC H5379.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** It is the intent of the legislature to give public and private entities that provide services to children the tools necessary to prevent convicted child sex offenders from contacting children when those children are within the legal boundaries of the covered public and private entities.

NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.44 RCW to read as follows:

As used in this section and sections 3 and 4 of this act:

(1) "Covered entity" means any public facility or private facility whose primary purpose, at any time, is to provide for the education, care, or recreation of a child or children, including but not limited to community and recreational centers, playgrounds, schools, swimming pools, and state or municipal parks.

(2) "Child" means a person under the age of eighteen, unless the context clearly indicates that the term is otherwise defined in statute.

(3) "Public facility" means a facility operated by a unit of local or state government, or by a nonprofit organization.

(4) "Schools" means public and private schools, but does not include home-based instruction as defined in RCW 28A.225.010.

(5) "Covered offender" means a person who is eighteen years of age or older, who is not under the jurisdiction of the juvenile rehabilitation authority or currently serving a special sex offender disposition alternative, whose risk level classification has been assessed at a risk level II or a risk level III pursuant to RCW 72.09.345, and who, at any time, has been convicted of one or more of the following offenses:

(a) Rape of a child in the first, second, and third degree; child molestation in the first, second, and third degree; indecent liberties against a child under age fifteen; sexual misconduct with a minor in the first and second degree; incest in the first and second degree; luring with sexual motivation; possession of depictions of minors engaged in sexually explicit conduct; dealing in depictions of minors engaged in sexually explicit conduct; bringing into the state depictions of minors engaged in sexually explicit conduct; sexual exploitation of a minor; communicating with a minor for immoral purposes; patronizing a juvenile prostitute;

(b) Any felony in effect at any time prior to the effective date of this act that is comparable to an offense listed in (a) of this subsection, including, but not limited to, statutory rape in the first and second degrees and carnal knowledge;

(c) Any felony offense for which:

(i) There was a finding that the offense was committed with sexual motivation; and

(ii) The victim of the offense was less than sixteen years of age at the time of the offense;

(d) An attempt, conspiracy, or solicitation to commit any of the offenses listed in (a) through (c) of this subsection;

(e) Any conviction from any other jurisdiction which is comparable to any of the offenses listed in (a) through (d) of this subsection.

NEW SECTION. **Sec. 3.** A new section is added to chapter 9A.44 RCW to read as follows:

(1) An owner, employee, or agent of a covered entity may order a covered offender from the legal premises of a covered entity as provided under this section. To do this, the owner, employee, or agent of a covered entity must first personally serve on the covered offender a written notice that informs the covered offender that:

(a) The covered offender must leave the legal premises of the covered entity and may not return without the written permission of the covered entity; and

(b) If the covered offender refuses to leave the legal boundaries of the covered entity, or thereafter returns and enters within the legal boundaries of the covered entity, the offender may be charged and prosecuted for a felony offense as provided in section 4 of this act.

(2) An owner, employee, or agent of a covered entity shall be immune from civil liability for damages arising from ejecting a covered offender from a covered entity or from failing to eject a covered offender from a covered entity.

NEW SECTION. **Sec. 4.** A new section is added to chapter 9A.44 RCW to read as follows:

(1) A person is guilty of the crime of criminal trespass against children if he or she:

(a) Is a covered offender as defined in section 2 of this act;

(b) Receives written notice that complies with the requirements of section 3 of this act that he or she is not permitted to remain upon or reenter the legal boundaries of the covered entity; and

(c) Remains upon or reenters the legal boundaries of the covered entity without the written permission of the covered entity.

(2) Criminal trespass against children is a class C felony.

Sec. 5. RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)

Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))

Rape 1 (RCW 9A.44.040)

Rape of a Child 1 (RCW 9A.44.073)

Trafficking 2 (RCW 9A.40.100(2))

XI Manslaughter 1 (RCW 9A.32.060)

Rape 2 (RCW 9A.44.050)

Rape of a Child 2 (RCW 9A.44.076)

X Child Molestation 1 (RCW 9A.44.083)

Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))

Kidnapping 1 (RCW 9A.40.020)

Leading Organized Crime (RCW 9A.82.060(1)(a))

Malicious explosion 3 (RCW 70.74.280(3))

Sexually Violent Predator Escape (RCW 9A.76.115)

IX Assault of a Child 2 (RCW 9A.36.130)

Explosive devices prohibited (RCW 70.74.180)

Hit and Run--Death (RCW 46.52.020(4)(a))

Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)

Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))

Malicious placement of an explosive 2 (RCW 70.74.270(2))

Robbery 1 (RCW 9A.56.200)

Sexual Exploitation (RCW 9.68A.040)

Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)

VIII Arson 1 (RCW 9A.48.020)

Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)

Manslaughter 2 (RCW 9A.32.070)

Promoting Prostitution 1 (RCW 9A.88.070)

Theft of Ammonia (RCW 69.55.010)

Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)

VII Burglary 1 (RCW 9A.52.020)

Child Molestation 2 (RCW 9A.44.086)

Civil Disorder Training (RCW 9A.48.120)

Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)

Drive-by Shooting (RCW 9A.36.045)

Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)

Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))

Introducing Contraband 1 (RCW 9A.76.140)

Malicious placement of an explosive 3 (RCW 70.74.270(3))

Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)

Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)

Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))

Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)

Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)

VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))

Bribery (RCW 9A.68.010)

Incest 1 (RCW 9A.64.020(1))

Intimidating a Judge (RCW 9A.72.160)

Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)

Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))

Rape of a Child 3 (RCW 9A.44.079)

Theft of a Firearm (RCW 9A.56.300)

Unlawful Storage of Ammonia (RCW 69.55.020)

V Abandonment of dependent person 1 (RCW 9A.42.060)

Advancing money or property for extortionate extension of credit (RCW 9A.82.030)

Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))

Child Molestation 3 (RCW 9A.44.089)

Criminal Mistreatment 1 (RCW 9A.42.020)

Custodial Sexual Misconduct 1 (RCW 9A.44.160)

Domestic Violence Court Order Violation (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)

Extortion 1 (RCW 9A.56.120)

Extortionate Extension of Credit (RCW 9A.82.020)

Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)

Incest 2 (RCW 9A.64.020(2))

Kidnapping 2 (RCW 9A.40.030)

Perjury 1 (RCW 9A.72.020)

Persistent prison misbehavior (RCW 9.94.070)

Possession of a Stolen Firearm (RCW 9A.56.310)

Rape 3 (RCW 9A.44.060)

Rendering Criminal Assistance 1 (RCW 9A.76.070)

Sexual Misconduct with a Minor 1 (RCW 9A.44.093)

Sexually Violating Human Remains (RCW 9A.44.105)

Stalking (RCW 9A.46.110)

Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)

IV Arson 2 (RCW 9A.48.030)

Assault 2 (RCW 9A.36.021)

Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))

Assault by Watercraft (RCW 79A.60.060)

Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)

Cheating 1 (RCW 9.46.1961)

Commercial Bribery (RCW 9A.68.060)

Counterfeiting (RCW 9.16.035(4))

Criminal Trespass Against Children (second or subsequent offense) (section 4 of this act)

Endangerment with a Controlled Substance (RCW 9A.42.100)

Escape 1 (RCW 9A.76.110)

Hit and Run--Injury (RCW 46.52.020(4)(b))

Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))

Identity Theft 1 (RCW 9.35.020(2))

Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)

Influencing Outcome of Sporting Event (RCW 9A.82.070)

Malicious Harassment (RCW 9A.36.080)

Residential Burglary (RCW 9A.52.025)

Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Threats to Bomb (RCW 9.61.160)

Trafficking in Stolen Property 1 (RCW 9A.82.050)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))

Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))

Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))

Unlawful transaction of insurance business (RCW 48.15.023(3))

Unlicensed practice as an insurance professional (RCW 48.17.063(3))

Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))

Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)

Willful Failure to Return from Furlough (RCW 72.66.060)

III Abandonment of dependent person 2 (RCW 9A.42.070)

Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))

Assault of a Child 3 (RCW 9A.36.140)

Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))

Burglary 2 (RCW 9A.52.030)

Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

Criminal Gang Intimidation (RCW 9A.46.120)

Criminal Mistreatment 2 (RCW 9A.42.030)

Custodial Assault (RCW 9A.36.100)

Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

Harassment (RCW 9A.46.020)

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

Malicious Injury to Railroad Property (RCW 81.60.070)

Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)

Patronizing a Juvenile Prostitute (RCW 9.68A.100)

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

Promoting Prostitution 2 (RCW 9A.88.080)

Securities Act violation (RCW 21.20.400)

Tampering with a Witness (RCW 9A.72.120)

Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))

Theft of Livestock 2 (RCW 9A.56.083)

Trafficking in Stolen Property 2 (RCW 9A.82.055)

Unlawful Imprisonment (RCW 9A.40.040)

Unlawful possession of firearm in the second degree (RCW 9.41.040(2))

Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)

Willful Failure to Return from Work Release (RCW 72.65.070)

II Computer Trespass 1 (RCW 9A.52.110)

Counterfeiting (RCW 9.16.035(3))

Escape from Community Custody (RCW 72.09.310)

Health Care False Claims (RCW 48.80.030)

Identity Theft 2 (RCW 9.35.020(3))

Improperly Obtaining Financial Information (RCW 9.35.010)

Malicious Mischief 1 (RCW 9A.48.070)

Possession of Stolen Property 1 (RCW 9A.56.150)

Theft 1 (RCW 9A.56.030)

Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))

Trafficking in Insurance Claims (RCW 48.30A.015)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))

Unlawful Practice of Law (RCW 2.48.180)

Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))

I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)

False Verification for Welfare (RCW 74.08.055)

Forgery (RCW 9A.60.020)

Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)

Malicious Mischief 2 (RCW 9A.48.080)

Mineral Trespass (RCW 78.44.330)

Possession of Stolen Property 2 (RCW 9A.56.160)

Reckless Burning 1 (RCW 9A.48.040)

Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)

Theft 2 (RCW 9A.56.040)

Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))

Transaction of insurance business beyond the scope of licensure (RCW 48.17.063(4))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW 9.91.144)

Vehicle Prowl 1 (RCW 9A.52.095)

NEW SECTION. **Sec. 6.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6775.

Senator Hargrove spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6775.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6775 by voice vote.

MOTION

On motion of Senator Morton, Senator McCaslin was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6775, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6775, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators McCaslin and Oke - 2

SUBSTITUTE SENATE BILL NO. 6775, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2006

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to HOUSE BILL NO. 2409 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate recede from its position on the Senate amendments to House Bill No. 2409.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position on the Senate amendments to House Bill No. 2409.

The motion by Senator Hargrove carried and the Senate receded from its amendments to House Bill No. 2409.

MOTION

On motion of Senator Hargrove, the rules were suspended and House Bill No. 2406 was returned to second reading for the purposes of amendment.

SECOND READING

HOUSE BILL NO. 2409, by Representatives O'Brien, Rodne, Ericks, Lovick, Anderson, Jarrett, Nixon, McDonald,

Williams, Darneille, Buck, Conway, P. Sullivan, Tom, Takko, Lantz, Kilmer, Fromhold, B. Sullivan, Morrell, Simpson, Springer, Green, Miloscia, Sells and Ormsby

Changing the provisions relating to sex and kidnapping offender registration.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"**Sec. 1** RCW 9A.44.130 and 2003 c 215 s 1 and 2003 c 53 s 68 are each reenacted and amended to read as follows:

(1) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person. In addition, any such adult or juvenile: (a) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution; (b) who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's employment by the institution; or (c) whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution. Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, must notify the county sheriff immediately. The sheriff shall notify the institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(2) This section may not be construed to confer any powers pursuant to RCW ((~~4.24.500~~)) 4.24.550 upon the public safety department of any public or private institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) complete residential address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (10) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of correction's active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with

the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within ((~~thirty~~)) three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (10) of this section.

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (10) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send signed written notice of the change of address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send signed written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send signed written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning

the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

(8) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

(9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means:

(i) Any offense defined as a sex offense by RCW 9.94A.030;

(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection (9)(b); and (iii) any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection (9)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

(10)(a) A person who knowingly fails to ((~~register with the county sheriff or notify the county sheriff, or who changes his or her name without notifying the county sheriff and the state patrol, as required by~~)) comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (9)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (9)(a) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(11)(a) A person who knowingly fails to ((~~register or who moves within the state without notifying the county sheriff as required by~~))comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined in subsection (9)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection (9)(b) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

Sec. 2 RCW 9A.44.130 and 2005 c 380 s 1 are each amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise

specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection:

(i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within ten days of enrolling or prior to arriving at the school to attend classes, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(iii) Who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's employment by the institution; or

(iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, or a public or private school regulated under Title 28A RCW or chapter 72.40 RCW on September 1, 2006, must notify the county sheriff immediately.

(d) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(e)(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW ((~~4.24.500~~)) 4.24.550 upon the public safety department of any public or private school or institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) complete residential address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (10) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping

offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within ((~~thirty~~)) three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed on or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (10) of this section.

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (10) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send signed written notice of the change of address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send signed written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of

residence and must register with that county sheriff within twenty-four hours of moving. The person must also send signed written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

(8) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

(9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means:

(i) Any offense defined as a sex offense by RCW 9.94A.030;

(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection (9)(b); and (iii) any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection (9)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

(10)(a) A person who knowingly fails to ((~~register with the county sheriff or notify the county sheriff, or who changes his or her name without notifying the county sheriff and the state patrol, as required by~~)) comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (9)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (9)(a) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(11)(a) A person who knowingly fails to ((~~register or who moves within the state without notifying the county sheriff as required by~~))comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined in subsection (9)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection (9)(b) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(12) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

Sec. 3 2006 c ... (SSB 6775) s 1 (uncodified) is amended to read as follows:

It is the intent of the legislature to give public and private entities that provide services to children the tools necessary to prevent convicted child sex offenders from contacting children when those children are within the legal ((~~boundaries~~)) premises of the covered public and private entities.

Sec. 4 RCW 9A.44.--- and 2006 c ... (SSB 6775) s 2 are each amended to read as follows:

As used in this section and RCW 9A.44.--- and 9A.44.--- (sections 3 and 4, chapter ... (SSB 6775), Laws of 2006):

(1) "Covered entity" means any public facility or private facility whose primary purpose, at any time, is to provide for the education, care, or recreation of a child or children, including but not limited to community and recreational centers, playgrounds, schools, swimming pools, and state or municipal parks.

(2) "Child" means a person under the age of eighteen, unless the context clearly indicates that the term is otherwise defined in statute.

(3) "Public facility" means a facility operated by a unit of local or state government, or by a nonprofit organization.

(4) "Schools" means public and private schools, but does not include home-based instruction as defined in RCW 28A.225.010.

(5) "Covered offender" means a person required to register under RCW 9A.44.130 who is eighteen years of age or older, who is not under the jurisdiction of the juvenile rehabilitation authority or currently serving a special sex offender disposition alternative, whose risk level classification has been assessed at a risk level II or a risk level III pursuant to RCW 72.09.345, and who, at any time, has been convicted of one or more of the following offenses:

(a) Rape of a child in the first, second, and third degree; child molestation in the first, second, and third degree; indecent liberties against a child under age fifteen; sexual misconduct with a minor in the first and second degree; incest in the first and second degree; luring with sexual motivation; possession of depictions of minors engaged in sexually explicit conduct; dealing in depictions of minors engaged in sexually explicit conduct; bringing into the state depictions of minors engaged in sexually explicit conduct; sexual exploitation of a minor; communicating with a minor for immoral purposes; patronizing a juvenile prostitute;

(b) Any felony in effect at any time prior to the effective date of this act that is comparable to an offense listed in (a) of this subsection, including, but not limited to, statutory rape in the first and second degrees and carnal knowledge;

(c) Any felony offense for which:

(i) There was a finding that the offense was committed with sexual motivation; and

(ii) The victim of the offense was less than sixteen years of age at the time of the offense;

(d) An attempt, conspiracy, or solicitation to commit any of the offenses listed in (a) through (c) of this subsection;

(e) Any conviction from any other jurisdiction which is comparable to any of the offenses listed in (a) through (d) of this subsection.

Sec. 5 RCW 9A.44.--- and 2006 c ... (SSB 6775) s 3 are each amended to read as follows:

(1) An owner, ((~~employee, or agent~~)) manager, or operator of a covered entity may order a covered offender from the legal premises of a covered entity as provided under this section. To do this, the owner, ((~~employee, or agent~~)) manager, or operator of a covered entity must first ((~~personally serve on~~)) provide the covered offender, or cause the covered offender to be provided, personal service of a written notice that informs the covered offender that:

(a) The covered offender must leave the legal premises of the covered entity and may not return without the written permission of the covered entity; and

(b) If the covered offender refuses to leave the legal ((~~boundaries~~)) premises of the covered entity, or thereafter returns and enters within the legal ((~~boundaries~~)) premises of the covered entity without written permission, the offender may be charged and prosecuted for a felony offense as provided in RCW 9A.44.--- (section 4, chapter ... (SSB 6775), Laws of 2006).

(2) A covered entity may give written permission of entry and use to a covered offender to enter and remain on the legal premises of the covered entity at particular times and for lawful purposes, including, but not limited to, conducting business, voting, or participating in educational or recreational activities. Any written permission of entry and use of the legal premises of a covered entity must be clearly stated in a written document and must be personally served on the covered offender. If the covered offender violates the conditions of entry and use contained in a written document personally served on the offender by the covered entity, the covered offender may be charged and prosecuted for a felony offense as provided in RCW 9A.44.--- (section 4, chapter ... (SSB 6775), Laws of 2006).

(3) An owner, employee, or agent of a covered entity shall be immune from civil liability for damages arising from ((~~ejecting a covered offender from a covered entity or from failing to eject a covered offender from a covered entity~~)) excluding or failing to exclude a covered offender from a covered entity or from imposing or failing to impose conditions of entry and use on a covered offender.

(4) A person provided with written notice from a covered entity under this section may file a petition with the district court alleging that he or she does not meet the definition of "covered offender" in RCW 9A.44.--- (section 2, chapter ... (SSB 6775), Laws of 2006). The district court must conduct a hearing on the petition within thirty days of the petition being filed. In the hearing on the petition, the person has the burden of proving that he or she is not a covered offender. If the court finds, by a preponderance of the evidence, that the person is not a covered offender, the court shall order the covered entity to rescind the written notice and shall order the covered entity to pay the person's costs and reasonable attorneys' fees.

Sec. 6 RCW 9A.44.--- and 2006 c ... (SSB 6775) s 4 are each amended to read as follows:

(1) A person is guilty of the crime of criminal trespass against children if he or she:

(a) Is a covered offender as defined in RCW 9A.44.--- (section 2, chapter ... (SSB 6775), Laws of 2006); and

(b) ((~~Receives written notice that complies with the requirements of section 3 of this act that he or she is not permitted to remain upon or reenter the legal boundaries of the covered entity; and~~

~~(c) Remains upon or reenters the legal boundaries of the covered entity without the written permission of the covered entity~~)) (i) Is personally served with written notice complying with the requirements of RCW 9A.44.--- (section 3, chapter ... (SSB 6775), Laws of 2006) that excludes the covered offender from the legal premises of the covered entity and remains upon or reenters the legal premises of the covered entity; or

(ii) Is personally served with written notice complying with the requirements of RCW 9A.44.--- (section 3, chapter ... (SSB 6775), Laws of 2006) that imposes conditions of entry and use on the covered offender and violates the conditions of entry and use.

(2) Criminal trespass against children is a class C felony.

NEW SECTION. **Sec. 7** 2006 c ... (SSB 6775) s 5 is hereby repealed.

NEW SECTION. **Sec. 8** Section 1 of this act expires September 1, 2006.

NEW SECTION. **Sec. 9** Sections 1 and 3 through 7 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. **Sec. 10** Section 2 of this act takes effect September 1, 2006.

NEW SECTION. **Sec. 11** Section 3 of this act is null and void if section 1 of Substitute Senate Bill No. 6775 is not enacted into law.

Section 4 of this act is null and void if section 2 of Substitute Senate Bill No. 6775 is not enacted into law.

Section 5 of this act is null and void if section 3 of Substitute Senate Bill No. 6775 is not enacted into law.

Section 6 of this act is null and void if section 4 of Substitute Senate Bill No. 6775 is not enacted into law.

Section 7 of this act is null and void if section 5 of Substitute Senate Bill No. 6775 is not enacted into law."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove and Stevens to House Bill No. 2409.

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

MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "regulating the conduct of registered sex offenders and kidnapping offenders; amending RCW 9A.44.130, 9A.44.---, 9A.44.---, and 9A.44.---; amending 2006 c ... s 1 (uncodified); reenacting and amending RCW 9A.44.130; creating a new section; repealing 2006 c ... s 5; providing an effective date; providing an expiration date; and declaring an emergency."

MOTION

On motion of Senator Hargrove, the rules were suspended, House Bill No. 2409 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of House Bill No. 2409 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2409 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators McCaslin and Oke - 2

HOUSE BILL NO. 2409 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 5179, with the following amendments{s} 5179.E AMH APP H5402.1.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) A work group is created to study opportunities to improve the forest health issues enumerated in RCW 76.06.140 that are facing forest land in Washington and to help the commissioner of public lands develop a strategic plan under section 3, chapter 218, Laws of 2004. The work group may, if deemed necessary, identify and focus on regions of the state where forest health issues enumerated in section 1 of this act are the most critical.

(2)(a) The work group is comprised of individuals selected on the basis of their knowledge of forests, forest ecology, or forest health issues and, if determined by the commissioner of public lands to be necessary, should represent a mix of individuals with knowledge regarding specific regions of the state. Members of the work group shall be appointed by the commissioner of public lands, unless otherwise specified, and shall include:

(i) The commissioner of public lands or the commissioner's designee, who shall serve as chair;

(ii) A representative of a statewide industrial timber landowner's group;

(iii) A landowner representative from the small forest landowner advisory committee established in RCW 76.13.110;

(iv) A representative of a college within a state university that specializes in forestry or natural resources science;

(v) A representative of an environmental organization;

(vi) A representative of a county that has within its borders state-owned forest lands that are known to suffer from the forest health deficiencies enumerated in RCW 76.06.140;

(vii) A representative of the Washington state department of fish and wildlife;

(viii) A forest hydrologist, an entomologist, and a fire ecologist, if available;

(ix) A representative of the governor appointed by the governor; and

(x) A representative of a professional forestry organization.

(b) In addition to the membership of the work group outlined in this section, the commissioner of public lands shall also invite the full and equal participation of:

(i) A representative of a tribal government located in a region of the state where the forest health issues enumerated in RCW 76.06.140 are present; and

(ii) A representative of both the United States forest service and the United States fish and wildlife service stationed to work primarily in Washington.

(3) The work group shall:

(a) Determine whether the goals and requirements of chapter 76.06 RCW are being met with regard to the identification, designation, and reduction of significant forest insect and disease threats to public and private forest resources, and whether the provisions of chapter 76.06 RCW are the most effective and appropriate way to address forest health issues;

(b) Study what incentives could be used to assist landowners with the costs of creating and maintaining forest health;

(c) Identify opportunities and barriers for improved prevention of losses of public and private resources to forest insects, diseases, wind, and fire;

(d) Assist the commissioner in developing a strategic plan under section 3, chapter 218, Laws of 2004 for increasing forest resistance and resilience to forest insects, disease, wind, and fire in Washington;

(e) Develop funding alternatives for consideration by the legislature;

(f) Explore possible opportunities for the state to enter into cooperative agreements with the federal government, or other

avenues for the state to provide input on the management of federally owned land in Washington;

(g) Develop recommendations for the proper treatment of infested and fire and wind damaged forests on public and private lands within the context of working with interdisciplinary teams under the forest practices act to ensure that forest health is achieved with the protection of fish, wildlife, and other public resources;

(h) Analyze the state noxious weed control statutes and procedures (chapter 17.10 RCW) and the extreme hazard regulations adopted under the forest protection laws, to determine if the policies and procedures of these laws are applicable, or could serve as a model to support improved forest health; and

(i) Recommend whether the work group should be extended beyond the time that the required report has been submitted.

(4) The work group shall submit to the department of natural resources and the appropriate standing committees of the legislature, no later than December 30, 2006, its findings and recommendations for legislation that is necessary to implement the findings.

(5) The department of natural resources shall provide technical and staff support from existing staff for the work group created by this section.

(6) The work group is required to hold a minimum of five meetings, at diverse locations throughout the state, to gather public input regarding the group's proposed legislation.

(7) This section expires June 30, 2007.

NEW SECTION. **Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2006, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same re herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5179.

Senator Jacobsen spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Jacobsen that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5179.

The motion by Senator Jacobsen carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5179 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5179, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5179, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Absent: Senator Pridemore - 1

Excused: Senators McCaslin and Oke - 2

ENGROSSED SENATE BILL NO. 5179, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 4, 2006

MR. PRESIDENT:
The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6175, with the following amendments{s} 6175-S2.E AMH SULB H5489.2.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 78.44.085 and 2001 1st sp.s. c 5 s 1 are each amended to read as follows:

(1) An applicant for ((~~a~~)) an expansion of a permitted surface mine, a new reclamation permit under RCW 78.44.081, or for combining existing public or private reclamation permits, shall pay a nonrefundable application fee to the department before being granted ((~~a surface mining~~)) the requested permit or permit expansion. The amount of the application fee shall be ((~~one~~)) two thousand five hundred dollars.

(2) Permit holders submitting a revision to an application for an existing reclamation plan that is not an expansion shall pay a nonrefundable reclamation plan revision fee of one thousand dollars.

(3) After June 30, ((~~2001~~)) 2006, each public or private permit holder shall pay an annual permit fee ((~~of one thousand dollars~~)) in an amount pursuant to this section. The annual permit fee shall be payable to the department prior to the reclamation permit being issued and on the ((~~first~~)) anniversary of the permit date ((~~and~~)) each year thereafter.

(4)(a) Except as otherwise provided in this subsection, each public or private permit holder must pay an annual fee under this section based on the categories of aggregate or mineral mined or extracted during the previous twelve months, as follows:

(i) Zero to fifty thousand tons: A fee of one thousand two hundred fifty dollars;

(ii) More than fifty thousand tons to three hundred fifty thousand tons: A fee of two thousand five hundred dollars;

(iii) More than three hundred fifty thousand tons: A fee of three thousand five hundred dollars.

(b) Annual fees paid by a county for mines used exclusively for public works projects and having less than seven acres of disturbed area per mine shall not exceed one thousand dollars.

(c) Annual fees are waived for all mines used primarily for public works projects if the mines are owned and primarily operated by counties with 1993 populations of less than twenty thousand persons, and if each mine has less than seven acres of disturbed area.

((~~(3)~~)) (5) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department are to be held as confidential and not released as part of a public records request under chapter 42.56 RCW.

(6) Appeals from any determination of the department shall not stay the requirement to pay any annual permit fee. Failure to pay the annual fees may constitute grounds for an order to suspend surface mining, pay fines, or ((~~cancellation of~~)) cancel the reclamation permit as provided in this chapter.

((~~(4)~~)) (7) All fees collected by the department shall be deposited into the surface mining reclamation account created in RCW 78.44.045.

((~~(5)~~)) (8) If the department delegates enforcement responsibilities to a county, city, or town, the department may allocate funds collected under this section to the county, city, or town.

((~~(6)~~)) (9) Within sixty days after receipt of ((~~a permit application~~)) an application for a new or expanded permit, the department shall advise applicants of any information necessary to successfully complete the application.

(10) In addition to other enforcement authority, the department may refer matters to a collection agency licensed under chapter 19.16 RCW when permit fees or fines are past due. The collection agency may impose its own fees for collecting delinquent permit fees or fines.

Sec. 2. RCW 78.44.045 and 1993 c 518 s 10 are each amended to read as follows:

(1) The surface mining reclamation account is created in the state treasury. Annual mining fees, funds received by the department from state, local, or federal agencies for research purposes, as well as other mine-related funds and fines received by the department shall be deposited into this account. Except as otherwise provided in this section, the surface mine reclamation account may be used by the department only to:

((~~(1)~~)) (a) Administer its regulatory program pursuant to this chapter;

((~~(2)~~)) (b) Undertake research relating to surface mine regulation, reclamation of surface mine lands, and related issues; and

((~~(3)~~)) (c) Cover costs arising from appeals from determinations made under this chapter.

(2) At the end of each fiscal biennium, any money collected from fees charged under RCW 78.44.085 that was not used for the administration and enforcement of surface mining regulation under this chapter must be used by the department for surveying and mapping sand and gravel sites in the state.

(3) Fines, interest, and other penalties collected by the department under the provisions of this chapter shall be used to reclaim surface mines abandoned prior to 1971.

Sec. 3. RCW 78.44.087 and 1997 c 186 s 1 are each amended to read as follows:

(1) The department should ensure that a sufficient performance security is available to reclaim each surface mine permitted under this chapter. To ensure sufficient funds are available:

(a) The department shall not issue a reclamation permit, except to public or governmental agencies, until the applicant has either deposited with the department an acceptable performance security on forms prescribed ((~~and furnished~~)) by the department that is deemed adequate by the department to cover reclamation costs or has complied with the blanket performance security option in section 4 of this act. A public or governmental agency shall not be required to post performance security.

(b) No person may create a disturbed area that meets or exceeds the minimum threshold for a reclamation permit without first submitting an adequate and acceptable performance security to the department and complying with all requirements of this chapter.

(2) ((~~This performance security may be~~)) The department may refuse to accept any performance security that the department, for any reason, deems to be inadequate to cover reclamation costs or is not in a form that is acceptable to the department.

(3) Acceptable forms of performance security are:

(a) Bank letters of credit acceptable to the department or irrevocable bank letters of credit from a bank or financial institution or organization authorized to transact business in the United States;

(b) A cash deposit;

(c) ((~~Negotiable~~)) Other forms of performance securities acceptable to the department as determined by rule;

(d) An assignment of a savings account;

(e) A savings certificate in a Washington bank on an assignment form prescribed by the department;

(f) ((~~Assignments of interests in real property within the state of Washington~~)) Approved participants in a state security pool if one is established; or

(g) A corporate surety bond executed in favor of the department by a corporation authorized to do business in the state of Washington under Title 48 RCW and authorized by the department.

((~~(3)~~)) (4) The performance security shall be conditioned upon the faithful performance of the requirements set forth in this chapter ((~~and of~~)), the rules adopted under it, and the reclamation permit.

((~~(4)~~)) (5)(a) The department ((~~shall have the authority to determine the amount of the performance security using a standardized performance security formula developed by the department. The amount of the security shall be determined by the department and based on the estimated costs of completing reclamation according to the approved reclamation plan or minimum standards and related administrative overhead for the area to be surface mined during (a) the next twelve-month period, (b) the following twenty-four months, and (c) any previously disturbed areas on which the reclamation has not been satisfactorily completed and approved~~)) must determine the amount of the performance security as prescribed by this subsection.

(b) The department may determine the amount of the performance security based on the estimated cost of: (i) Completing reclamation according to the requirements of this chapter; or (ii) the reclamation permit for the area to be surface mined during the upcoming thirty-six months and any previously disturbed areas that have not been reclaimed.

(c) The department may determine the amount of the performance security based on an engineering cost estimate for reclamation that is provided by the permit holder. The engineering cost estimate must be prepared using engineering principles and methods that are acceptable to the department. If the department does not approve the engineering cost estimate, the department shall determine the amount of the performance security using a standardized performance security formula developed by the department by rule.

((~~(5)~~)) (6) The department may ((~~increase or decrease the amount of the performance security at any time to compensate for a change in the disturbed area, the depth of excavation, a modification of the reclamation plan, or any other alteration in the conditions of the mine that affects the cost of reclamation. The department may, for any reason, refuse any performance security not deemed adequate~~)) recalculate a surface mine's performance security based on subsection (5) of this section. When the department recalculates a performance security, the new calculation will not be prejudiced by the existence of any previous calculation. A new performance security must be submitted to the department within thirty days of the department's written request.

((~~(6)~~)) (7) Liability under the performance security and the permit holder's obligation to maintain the calculated performance security amount shall be maintained until ((~~reclamation is completed according to the approved reclamation plan to the satisfaction of the department~~)) the surface mine is reclaimed, unless released as hereinafter provided. Partial drawings will proportionately reduce the value of a performance security but will not extinguish the remaining value. Liability under the performance security may be released only ((~~upon written notification by the department. Notification shall be given upon completion of compliance or acceptance by the department of a substitute performance security~~)) when the surface mine is reclaimed as evidenced by the department in writing or after the department receives and approves a substitute performance security. The department will notify the permit holder, and surety if applicable, when reclamation is accepted by the department as complete or upon the department's acceptance of an alternate security. The liability of the surety shall not exceed the amount of security required by

this section and the department's reasonable legal fees to recover the security.

((~~(7)~~)) (8) Any interest or appreciation on the performance security shall be held by the department until ((~~reclamation is completed to its satisfaction. At such time, the interest shall be remitted to the permit holder, except that such interest or appreciation may be used by the department to effect reclamation in the event that the permit holder fails to comply with the provisions of this chapter and the costs of reclamation exceed the face value of the performance security~~)) the surface mine is reclaimed. The department may collect and use appreciation or interest accrued on a performance security to the same extent as for the underlying performance security. If the permit holder meets its obligations under this chapter, rules adopted under this chapter, and its approved reclamation permit and plan by completing reclamation, the department will return any unused performance security and accrued interest or appreciation.

((~~(8)~~)) (9) No other state agency or local government other than the department shall require performance security for the purposes of surface mine reclamation. However, nothing in this section prohibits a state agency or local government from requiring a performance security when the state agency or local government is acting in its capacity as a landowner and contracting for extraction-related activities on state or local government property.

(10) The department may enter into written agreements with federal agencies in order to avoid redundant bonding of any surface ((~~mines straddling boundaries between federally controlled and other lands within~~)) mine that is located on both federal and nonfederal lands in Washington state.

((~~(9) When acting in its capacity as a regulator, no other state agency or local government may require a surface mining operation regulated under this chapter to post performance security unless that state agency or local government has express statutory authority to do so. A state agency's or local government's general authority to protect the public health, safety, and welfare does not constitute express statutory authority to require a performance security. However, nothing in this section prohibits a state agency or local government from requiring a performance security when the state agency or local government is acting in its capacity as a landowner and contracting for extraction-related activities on state or local government property.~~))

NEW SECTION. **Sec. 4.** A new section is added to chapter 78.44 RCW to read as follows:

(1) A permit holder, in lieu of an individual performance security for each mining site, may file a blanket performance security with the department for their group of permits.

(2) The department may reduce the required performance security calculated from its standard method prescribed in RCW 78.44.087, to an amount not to exceed the sum of reclamation security calculated by the department for the two surface mines with the largest performance security obligations, for nonmetal and nonfuel surface mines that meet the following conditions:

(a) The permit holder has had a valid reclamation permit for more than ten years and can demonstrate exemplary mining and reclamation practices that have been accepted by the department;

(b) The landowner agrees to allow the permit holder to hold a blanket security. The department must include, on forms to be signed by the landowner, notice of the risk of a lien on the landowner's lands; and

(c) The permit holder can demonstrate substantial financial ability to perform the reclamation in the approved reclamation plan and permit.

(3) Permit holders are not eligible for blanket securities if they are in violation of a final order of the department.

(4) The department must consider the compliance history and the state of the existing surface mines of the permit holder before approving any blanket performance security.

(5) Lands covered by a blanket performance security are subject to a lien placed by the department in the event of abandonment.

(6) In lieu of the performance security required of the permit holder, the department may accept a similar security from the landowner, equal to the estimated cost of reclamation as determined by the department.

NEW SECTION. **Sec. 5.** A new section is added to chapter 78.44 RCW to read as follows:

(1) To the extent a performance security is insufficient to cover the cost of reclamation performed by the department, a lien shall be established in favor of the department upon all of the permit holder's real and personal property.

(2) The lien attaches upon the filing of a notice of claim of lien with the county clerk of the county in which the property is located. The notice of lien claim must contain a true statement of the demand, the insufficiency of the performance security to compensate the department, and the failure of the permit holder to perform the reclamation required.

(3) The lien becomes effective when filed.

(4) The lien created by this section may be foreclosed by a suit in the superior court in the manner provided by law for the foreclosure of other liens on real or personal property.

Sec. 6. RCW 42.56.270 and 2005 c 274 s 407 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an

application for a liquor license, gambling license, or lottery retail license;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011; ((~~and~~))

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of community, trade, and economic development based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter; and

(13) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085.

NEW SECTION. **Sec. 7.** Section 6 of this act takes effect July 1, 2006.

NEW SECTION. **Sec. 8.** The department of natural resources shall establish a surface mining advisory committee that will recommend effective methods of accomplishing reclamation and address other issues deemed appropriate by the committee for the effective administration of chapter 78.44 RCW. The committee is comprised of but not limited to representatives of mining interests, state and local government, environmental groups, and private landowners. The state geologist will select the members of the committee. The department of natural resources must submit a report to the appropriate committees of the legislature containing the committee's findings by September 1, 2006."

On page 1, line 3 of the title, after "program;" strike the remainder of the title and insert "amending RCW 78.44.085, 78.44.045, 78.44.087, and 42.56.270; adding new sections to chapter 78.44 RCW; creating a new section; and providing an effective date."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Jacobsen moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6175.

Senators Jacobsen and Morton spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Jacobsen that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6175.

The motion by Senator Jacobsen carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6175 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6175, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6175, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 47

Excused: Senators McCaslin and Oke - 2

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6175, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

February 28, 2006

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 6528, with the following amendments{s} 6528-S AMH TR H5249.1, 6528-S AMH TR H5354.1.

On page 1, line 19, after "fee" insert "no greater than fifty dollars"

On page 1, line 19, after "traffic." insert "In issuing the permits, the department shall insure that the maximum practicable number of different individuals and entities receive permits, and that no one entity, to the extent practicable, is the sole permit holder for a particular location."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Mulliken moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6528.

Senator Mulliken spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Mulliken that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6528.

The motion by Senator Mulliken carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6528 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6528, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6528, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Absent: Senator Hargrove - 1

Excused: Senators McCaslin and Oke - 2

SUBSTITUTE SENATE BILL NO. 6528, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Regala, Senator Doumit was excused.

MESSAGE FROM THE HOUSE

February 28, 2006

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 6552, with the following amendments{s} 6552-S AMH TR H5351.1

On page 7, beginning on line 11, after "(1)" strike all material through line 14 and insert "Drivers of commercial motor vehicles shall obtain a commercial driver's license as required under this chapter ((~~by April 1, 1992. The director shall establish a program to convert all qualified commercial motor vehicle drivers by that date. After April 1, 1992;~~)).

On page 8, after line 18, insert the following:
"(3) The department shall to the extent possible enter into reciprocity agreements with adjoining states to allow the waivers described in subsection (1) of this section to apply to drivers holding commercial driver's licenses from those adjoining states."
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Benson moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6552.

Senator Benson spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Benson that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6552.

The motion by Senator Benson carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6552 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6552, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6552, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 2; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 44

Absent: Senators Hargrove and Roach - 2

Excused: Senators Doumit, McCaslin and Oke - 3

SUBSTITUTE SENATE BILL NO. 6552, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:
The House has passed SUBSTITUTE SENATE BILL NO. 6597, with the following amendments{s} 6597-S AMH JUDI PERR 095.

On page 9, line 27 strike "terminal"
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6597.

Senator Kline spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6597.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6597 by voice vote.

MOTION

On motion of Senator Regala, Senator Fairley was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6597, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6597, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Finkbeiner,

Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Doumit, Fairley, McCaslin and Oke - 4

SUBSTITUTE SENATE BILL NO. 6597, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 1, 2006

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6630, with the following amendments{s} 6630-S2.E AMH ROBE H5491.2.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The department of social and health services is providing a structured, therapeutic environment for persons who are eligible for placement in the community protection program in order for them to live safely and successfully in the community while minimizing the risk to public safety.

The legislature approves of steps already taken by the department to create a community protection program within the division of developmental disabilities.

NEW SECTION. **Sec. 2.** Sections 3 through 9 of this act apply to a person:

(1)(a) Who has been charged with or convicted of a crime and meets the following criteria:

(i) Has been convicted of one of the following:

(A) A crime of sexual violence as defined in chapter 9A.44 or 71.09 RCW including, but not limited to, rape, rape of a child, and child molestation;

(B) Sexual acts directed toward strangers, individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or persons of casual acquaintance with whom no substantial personal relationship exists; or

(C) One or more violent offenses, as defined by RCW 9.94A.030; and

(ii) Constitutes a current risk to others as determined by a qualified professional. Charges or crimes that resulted in acquittal must be excluded; or

(b) Who has not been charged with and/or convicted of a crime, but meets the following criteria:

(i) Has a history of stalking, violent, sexually violent, predatory, and/or opportunistic behavior which demonstrates a likelihood to commit a violent, sexually violent, and/or predatory act; and

(ii) Constitutes a current risk to others as determined by a qualified professional; and

(2) Who has been determined to have a developmental disability as defined by RCW 71A.10.020(3).

NEW SECTION. **Sec. 3.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Assessment" means the written opinion of a qualified professional stating, at a minimum:

(a) Whether a person meets the criteria established in section 2 of this act;

(b) What restrictions are necessary.

(2) "Certified community protection program intensive supported living services" means access to twenty-four-hour supervision, instruction, and support services as identified in the person's plan of care.

(3) "Community protection program" means services specifically designed to support persons who meet the criteria of section 2 of this act.

(4) "Constitutes a risk to others" means a determination of a person's risk and/or dangerousness based upon a thorough assessment by a qualified professional.

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

(6) "Developmental disability" means that condition defined in RCW 71A.10.020(3).

(7) "Disclosure" means providing copies of professional assessments, incident reports, legal documents, and other information pertaining to community protection issues to ensure the provider has all relevant information. Polygraph and plethysmograph reports are excluded from disclosure.

(8) "Division" means the division of developmental disabilities.

(9) "Managed successfully" means that a person supported by a community protection program does not engage in the behavior identified in section 2 of this act.

(10) "Opportunistic behavior" means an act committed on impulse, which is not premeditated.

(11) "Predatory" means acts directed toward strangers, individuals with whom a relationship has been established or promoted for the primary purpose of victimization, or casual acquaintances with whom no substantial personal relationship exists. Predatory behavior may be characterized by planning and/or rehearsing the act, stalking, and/or grooming the victim.

(12) "Qualified professional" means a person with at least three years' prior experience working with individuals with developmental disabilities, and: (a) If the person being assessed has demonstrated sexually aggressive or sexually violent behavior, that person must be assessed by a qualified professional who is a certified sex offender treatment provider, or affiliate sex offender treatment provider working under the supervision of a certified sex offender treatment provider; or (b) If the person being assessed has demonstrated violent, dangerous, or aggressive behavior, that person must be assessed by a licensed psychologist or psychiatrist who has received specialized training in the treatment of or has at least three years' prior experience treating violent or aggressive behavior.

(13) "Treatment team" means the program participant and the group of people responsible for the development, implementation, and monitoring of the person's individualized supports and services. This group may include, but is not limited to, the case resource manager, therapist, residential provider, employment/day program provider, and the person's legal representative and/or family, provided the person consents to the family member's involvement.

(14) "Violent offense" means any felony defined as a violent offense in RCW 9.94A.030.

(15) "Waiver" means the community-based funding under section 1915 of Title XIX of the federal social security act.

NEW SECTION. **Sec. 4.** (1) Prior to receiving services through the community protection program, a person must first receive an assessment of risk and/or dangerousness by a qualified professional. The assessment must be consistent with the guidelines for risk assessments and psychosexual evaluations developed by the department. The person requesting services and the person's legal representative have the right to choose the qualified professional who will perform the assessment from a list of state contracted qualified professionals. The assessment must contain, at a minimum, a determination by the qualified professional whether the person can be managed successfully in the community with reasonably available safeguards and that lesser restrictive residential placement alternatives have been considered and would not be reasonable for the person seeking services. The department may

request an additional evaluation by a qualified professional evaluator who is contracted with the state.

(2) Any person being considered for placement in the community protection program and his or her legal representative must be informed in writing of the following: (a) Limitations regarding the services that will be available due to the person's community protection issues; (b) disclosure requirements as a condition of receiving services other than case management; (c) the requirement to engage in therapeutic treatment may be a condition of receiving certain services; (d) anticipated restrictions that may be provided including, but not limited to intensive supervision, limited access to television viewing, reading material, videos; (e) the right to accept or decline services; (f) the anticipated consequences of declining services such as the loss of existing services and removal from waiver services; (g) the right to an administrative fair hearing in accordance with department and division policy; (h) the requirement to sign a preplacement agreement as a condition of receiving community protection intensive supported living services; (i) the right to retain current services during the pendency of any challenge to the department's decision; (j) the right to refuse to participate in the program.

(3)(a) If the department determines that a person is appropriate for placement in the community protection program, the individual and his or her legal representative shall receive in writing a determination by the department that the person meets the criteria for placement within the community protection program.

(b) If the department determines that a person cannot be managed successfully in the community protection program with reasonably available safeguards, the department must notify the person and his or her legal representative in writing.

NEW SECTION. **Sec. 5.** (1) Individuals receiving services through the department's community protection waiver retain all appeal rights provided for in RCW 71A.10.050. In addition, such individuals have a right to an administrative hearing pursuant to chapter 34.05 RCW to appeal the following decisions by the department:

(a) Termination of community protection waiver eligibility;

(b) Assignment of the applicant to the community protection waiver;

(c) Denial of a request for less restrictive community residential placement.

(2) Final administrative decisions may be appealed pursuant to the provisions of RCW 34.05.510.

(3) The secretary shall adopt rules concerning the procedure applicable to requests for hearings under this section and governing the conduct thereof.

(4) When the department takes any action described in subsection (1) of this section it shall give notice as provided by RCW 71A.10.060. The notice must include a statement advising the person enrolled on the community protection waiver of the right to an adjudicative proceeding and the time limits for filing an application for an adjudicative proceeding. Notice must also include a statement advising the recipient of the right to file a petition for judicial review of a final administrative decision as provided in chapter 34.05 RCW.

(5) Nothing in this section creates an entitlement to placement on the community protection waiver nor does it create a right to an administrative hearing on department decisions denying placement on the community protection waiver.

NEW SECTION. **Sec. 6.** (1) Community protection program participants shall have appropriate opportunities to receive services in the least restrictive manner and in the least restrictive environments possible.

(2) There must be a review by the treatment team every ninety days to assess each participant's progress, evaluate use of less restrictive measures, and make changes in the participant's program as necessary. The team must review all restrictions and recommend reductions if appropriate. The therapist must write a report annually evaluating the participant's risk of offense and/or risk of behaviors that are dangerous to self or others. The department shall have rules in place describing this process. If a treatment team member has reason to be concerned that circumstances have changed significantly, the team member may request that a complete reassessment be conducted at any time.

NEW SECTION. **Sec. 7.** A participant who demonstrates success in complying with reduced restrictions and remains free of offenses that may indicate a relapse for at least twelve months, may be considered for placement in a less restrictive community residential setting.

The process to move a participant to a less restrictive residential placement shall include, at a minimum:

(1) Written verification of the person's treatment progress, compliance with reduced restrictions, an assessment of low risk of reoffense, and a recommendation as to suitable placement by the treatment team;

(2) Development of a gradual phase out plan by the treatment team, projected over a reasonable period of time and includes specific criteria for evaluating reductions in restrictions, especially supervision;

(3) The absence of any incidents that may indicate relapse for a minimum of twelve months;

(4) A written plan that details what supports and services, including the level of supervision the person will receive from the division upon exiting the community protection program;

(5) An assessment consistent with the guidelines for risk assessments and psychosexual evaluations developed by the division, conducted by a qualified professional. At a minimum, the assessment shall include:

(a) An evaluation of the participant's risk of reoffense and/or dangerousness; and

(b) An opinion as to whether or not the person can be managed successfully in a less restrictive community residential setting;

(6) Recommendation by the treatment team that the participant is ready to move to a less restrictive community residential placement.

NEW SECTION. **Sec. 8.** (1) The department is authorized to take one or more of the enforcement actions listed in subsection (2) of this section when the department finds that a provider of residential services and support with whom the department entered into an agreement under this chapter has:

(a) Failed or refused to comply with the requirements of this chapter or the rules adopted under it;

(b) Failed or refused to cooperate with the certification process;

(c) Prevented or interfered with a certification, inspection, or investigation by the department;

(d) Failed to comply with any applicable requirements regarding vulnerable adults under chapter 74.34 RCW; or

(e) Knowingly, or with reason to know, made a false statement of material fact related to certification or contracting with the department, or in any matter under investigation by the department.

(2) The department may:

(a) Decertify or refuse to renew the certification of a provider;

(b) Impose conditions on a provider's certification status;

(c) Suspend department referrals to the provider; or

(d) Require a provider to implement a plan of correction developed by the department and to cooperate with subsequent monitoring of the provider's progress. In the event a provider fails to implement the plan of correction or fails to cooperate with subsequent monitoring, the department may impose civil penalties of not more than one hundred fifty dollars per day per violation. Each day during which the same or similar action or inaction occurs constitutes a separate violation.

(3) When determining the appropriate enforcement action or actions under subsection (2) of this section, the department must

select actions commensurate with the seriousness of the harm or threat of harm to the persons being served by the provider. Further, the department may take enforcement actions that are more severe for violations that are uncorrected, repeated, pervasive, or which present a serious threat of harm to the health, safety, or welfare of persons served by the provider. The department shall by rule develop criteria for the selection and implementation of enforcement actions authorized in subsection (2) of this section. Rules adopted under this section shall include a process for an informal review upon request by a provider.

(4) The provisions of chapter 34.05 RCW apply to enforcement actions under this section. Except for the imposition of civil penalties, the effective date of enforcement actions shall not be delayed or suspended pending any hearing or informal review.

(5) The enforcement actions and penalties authorized in this section are not exclusive or exhaustive and nothing in this section prohibits the department from taking any other action authorized in statute or rule or under the terms of a contract with the provider.

NEW SECTION. **Sec. 9.** The department shall develop and maintain rules, guidelines, or policy manuals, as appropriate, for implementing and maintaining the community protection program under this chapter.

Sec. 10. RCW 71.09.020 and 2003 c 216 s 2 and 2003 c 50 s 1 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

(2) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, federally approved renal dialysis center or facility, or federally approved blood bank.

(3) "Health care practitioner" means an individual or firm licensed or certified to engage actively in a regulated health profession.

(4) "Health care services" means those services provided by health professionals licensed pursuant to RCW 18.120.020(4).

(5) "Health profession" means those licensed or regulated professions set forth in RCW 18.120.020(4).

(6) "Less restrictive alternative" means court-ordered treatment in a setting less restrictive than total confinement which satisfies the conditions set forth in RCW 71.09.092. A less restrictive alternative may not include placement in the community protection program as pursuant to section 4 of this act.

(7) "Likely to engage in predatory acts of sexual violence if not confined in a secure facility" means that the person more probably than not will engage in such acts if released unconditionally from detention on the sexually violent predator petition. Such likelihood must be evidenced by a recent overt act if the person is not totally confined at the time the petition is filed under RCW 71.09.030.

(8) "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.

(9) "Predatory" means acts directed towards: (a) Strangers; (b) individuals with whom a relationship has been established or promoted for the primary purpose of victimization; or (c) persons of casual acquaintance with whom no substantial personal relationship exists.

(10) "Recent overt act" means any act or threat that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm in the mind of an objective person who knows of the history and mental condition of the person engaging in the act.

(11) "Risk potential activity" or "risk potential facility" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. Risk potential activities and facilities include: Public and private schools, school bus stops, licensed day care and licensed preschool facilities, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others identified by the department following the hearings on a potential site required in RCW 71.09.315. For purposes of this chapter, "school bus stops" does not include bus stops established primarily for public transit.

(12) "Secretary" means the secretary of social and health services or the secretary's designee.

(13) "Secure facility" means a residential facility for persons civilly confined under the provisions of this chapter that includes security measures sufficient to protect the community. Such facilities include total confinement facilities, secure community transition facilities, and any residence used as a court-ordered placement under RCW 71.09.096.

(14) "Secure community transition facility" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under this chapter. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facility established pursuant to RCW 71.09.250(1)(a)(i) and any community-based facilities established under this chapter and operated by the secretary or under contract with the secretary.

(15) "Sexually violent offense" means an act committed on, before, or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as rape in the first degree, rape in the second degree by forcible compulsion, rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties by forcible compulsion, indecent liberties against a child under age fourteen, incest against a child under age fourteen, or child molestation in the first or second degree; (b) a felony offense in effect at any time prior to July 1, 1990, that is comparable to a sexually violent offense as defined in (a) of this subsection, or any federal or out-of-state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this subsection; (c) an act of murder in the first or second degree, assault in the first or second degree, assault of a child in the first or second degree, kidnapping in the first or second degree, burglary in the first degree, residential burglary, or unlawful imprisonment, which act, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this chapter, has been determined beyond a reasonable doubt to have been sexually motivated, as that term is defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the felonies designated in (a), (b), or (c) of this subsection.

(16) "Sexually violent predator" means any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.

(17) "Total confinement facility" means a secure facility that provides supervision and sex offender treatment services in a total confinement setting. Total confinement facilities include the special commitment center and any similar facility designated as a total confinement facility by the secretary.

Sec. 11. RCW 71.09.060 and 2001 c 286 s 7 are each amended to read as follows:

(1) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. In determining whether or not the person would be likely to engage in predatory acts of sexual violence if not confined in a secure facility, the fact finder may consider only placement conditions and voluntary treatment options that would exist for the person if unconditionally released from detention on the sexually violent predator petition. The community protection program under section 4 of this act may not be considered as a placement condition or treatment option available to the person if unconditionally released from detention on a sexually violent predator petition. When the determination is made by a jury, the verdict must be unanimous.

If, on the date that the petition is filed, the person was living in the community after release from custody, the state must also prove beyond a reasonable doubt that the person had committed a recent overt act. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated as provided in RCW 71.09.020(((~~(6)~~))) (15)(c), the state must prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated as defined in RCW 9.94A.030.

If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of social and health services for placement in a secure facility operated by the department of social and health services for control, care, and treatment until such time as: (a) The person's condition has so changed that the person no longer meets the definition of a sexually violent predator; or (b) conditional release to a less restrictive alternative as set forth in RCW 71.09.092 is in the best interest of the person and conditions can be imposed that would adequately protect the community.

If the court or unanimous jury decides that the state has not met its burden of proving that the person is a sexually violent predator, the court shall direct the person's release.

If the jury is unable to reach a unanimous verdict, the court shall declare a mistrial and set a retrial within forty-five days of the date of the mistrial unless the prosecuting agency earlier moves to dismiss the petition. The retrial may be continued upon the request of either party accompanied by a showing of good cause, or by the court on its own motion in the due administration of justice provided that the respondent will not be substantially prejudiced. In no event may the person be released from confinement prior to retrial or dismissal of the case.

(2) If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to or has been released pursuant to RCW 10.77.090(4), and his or her commitment is sought pursuant to subsection (1) of this section, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal under RCW 10.77.090(4) that the person committed the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on his or her own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, it shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

(3) The state shall comply with RCW 10.77.220 while confining the person pursuant to this chapter, except that during all court proceedings the person shall be detained in a secure facility. The department shall not place the person, even temporarily, in a facility on the grounds of any state mental facility or regional habilitation center because these institutions are insufficiently secure for this population.

(4) A court has jurisdiction to order a less restrictive alternative placement only after a hearing ordered pursuant to RCW 71.09.090 following initial commitment under this section and in accord with the provisions of this chapter.

NEW SECTION. **Sec. 12.** Sections 2 through 9 of this act are each added to chapter 71A.12 RCW."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6630.

Senator Kline spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6630.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6630 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6630, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6630, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benson, Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Excused: Senators Doumit, McCaslin and Oke - 3

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6630, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 2, 2006

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6800, with the following amendments{s} 6800-S.E AMH TR H5409.1.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 47.01.031 and 1988 c 167 s 11 are each amended to read as follows:

(1) There is created a department of state government to be known as the department of transportation.

(2) All powers, duties, and functions vested by law in the department of highways, the state highway commission, the transportation commission, the director of highways, the Washington toll bridge authority, the aeronautics commission, the director of aeronautics, and the canal commission, and the transportation related powers, duties, and functions of the ((planning and community affairs agency)) department of community, trade, and economic development, are transferred to the jurisdiction of the department, except those powers, duties, and functions which are expressly retained or directed elsewhere ((in this or in any other act of the 1977 legislature)).

(3) The board of pilotage commissioners is transferred to the jurisdiction of the department for its staff support and administration((: PROVIDED, That)). Nothing in this section shall be construed as transferring any policy making powers of the board of pilotage commissioners to the transportation commission or the department of transportation.

Sec. 2. RCW 47.01.051 and 1977 ex.s. c 151 s 5 are each amended to read as follows:

There is hereby created a transportation commission, which shall consist of seven members appointed by the governor, with the consent of the senate. ((The present five members of the highway commission shall serve as five initial members of the transportation commission until their terms of office as highway commission members would have expired. The additional two members provided herein for the transportation commission shall be appointed for initial terms to expire on June 30, 1982, and June 30, 1983. Thereafter)) All terms for commission members appointed after the effective date of this act shall be for ((six)) four years. No elective state official or state officer ((or state employee)) shall be a member of the commission, and not more than four members of the commission shall at the time of appointment or thereafter during their respective terms of office be members of the same major political party. At the time of appointment or thereafter during their respective terms of office, four members of the commission shall reside in the western part of the state and three members shall reside in the eastern part of the state as divided north and south by the summit of the Cascade mountains. No more than two members of the commission shall reside in the same county. Commissioners ((shall not)) may be removed from office by the governor before the expiration of their terms ((unless for a disqualifying change of residence or for cause based upon a determination of incapacity, incompetence, neglect of duty, or malfeasance in office by the superior court of the state of Washington in and for Thurston county upon petition and show cause proceedings duly brought therefor in said court and directed to the commissioner in question. No member shall be appointed for more than two consecutive terms)) for cause.

Sec. 3. RCW 47.01.061 and 2005 c 319 s 4 are each amended to read as follows:

(1) The commission shall meet at such times as it deems advisable ((but at least once every month. It may adopt its own rules and regulations and may establish its own procedure)). It shall act collectively in harmony with recorded resolutions or motions adopted by majority vote of at least four members. The commission may appoint an administrative secretary((, and shall elect one of its members chairman for a term of one year)). The governor shall appoint the chair of the commission. The ((chairman shall be able to)) chair may vote on all matters before the commission. The commission may ((from time to time)) retain planners, consultants, and other technical personnel to advise it in the performance of its duties.

(2) The commission shall submit to each regular session of the legislature held in an odd-numbered year and to the office of financial management its own budget proposal necessary for the commission's operations ((separate from that proposed for the department)).

(3) Each member of the commission shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission, and actual and necessary traveling and other expenses incurred in the discharge of such duties as may be requested by a majority vote of the commission or by the ((secretary of transportation)) chair, but in no event shall a commissioner be compensated in any year for more than one hundred twenty days, except the ((chairman of the commission)) chair who may be paid compensation for not more than one hundred fifty days. Service on the commission shall not be considered as service credit for the purposes of any public retirement system.

(4) Each member of the commission shall disclose any actual or potential conflict of interest, if applicable under the circumstance, regarding any commission business.

Sec. 4. RCW 47.01.071 and 2005 c 319 s 5 are each amended to read as follows:

The transportation commission shall have the following functions, powers, and duties:

(1) ((To propose policies to be adopted by the governor and the legislature designed to assure the development and maintenance of a comprehensive and balanced statewide transportation system which will meet the needs of the people of this state for safe and efficient transportation services. Wherever appropriate the policies shall provide for the use of integrated, intermodal transportation systems to implement the social, economic, and environmental policies, goals, and objectives of the people of the state, and especially to conserve nonrenewable natural resources including land and energy. To this end the commission shall:

(a) Develop transportation policies which are based on the policies, goals, and objectives expressed and inherent in existing state laws;

(b) Inventory the adopted policies, goals, and objectives of the local and area-wide governmental bodies of the state and define the role of the state, regional, and local governments in determining transportation policies, in transportation planning, and in implementing the state transportation plan;

(c) Propose a transportation policy for the state;

(d) Establish a procedure for review and revision of the state transportation policy and for submission of proposed changes to the governor and the legislature;

(e) To integrate the statewide transportation plan with the needs of the elderly and handicapped, and to coordinate federal and state programs directed at assisting local governments to answer such needs;

(2) To provide for the effective coordination of state transportation planning with national transportation policy, state and local land use policies, and local and regional transportation plans and programs;

(3)) In conjunction with the provisions under RCW 47.01.075, to provide for public involvement in transportation designed to elicit the public's views both with respect to adequate transportation services and appropriate means of minimizing adverse social, economic, environmental, and energy impact of transportation programs;

(((4))) (2) To ((prepare a)) review, consider, and gather public input on the statewide comprehensive and balanced statewide transportation plan ((which shall be based on the transportation policy adopted by the governor and the legislature and applicable state and federal laws. The plan shall be reviewed and revised, and submitted to the governor and the house of representatives and senate standing committees on transportation, prior to each regular session of the legislature during an even-numbered year thereafter.

The plan shall take into account federal law and regulations relating to the planning, construction, and operation of

~~transportation facilities~~)) prepared by the department as provided in RCW 47.01.101(12);

(((~~(5)~~))) (3) To propose to the governor and the legislature prior to the convening of each regular session held in an odd-numbered year a recommended budget for the operations of the commission as required by RCW 47.01.061;

~~(((6) To approve the issuance and sale of all bonds authorized by the legislature for capital construction of state highways, toll facilities, Columbia Basin county roads (for which reimbursement to the motor vehicle fund has been provided), urban arterial projects, and aviation facilities;~~

~~(7)~~)) (4) To adopt such rules((~~, regulations, and policy directives~~)) as may be necessary to carry out reasonably and properly those functions expressly vested in the commission by statute;

(((~~(8)~~))) (5) To contract with the office of financial management or other appropriate state agencies for administrative support, accounting services, computer services, and other support services necessary to carry out its other statutory duties;

(((~~(9)~~))) (6) To exercise such other specific powers and duties as may be vested in the transportation commission by this or any other provision of law.

Sec. 5. RCW 47.01.075 and 2005 c 319 s 6 are each amended to read as follows:

(1) The transportation commission shall provide a forum ((~~for the development of~~)) to gather public input regarding transportation policy in Washington state, including input on the statewide comprehensive transportation plan. It may recommend to the secretary of transportation, the governor, and the legislature means for obtaining appropriate citizen ((~~and professional~~)) involvement in ((~~all~~)) transportation policy formulation ((~~and other matters related to the powers and duties of the department~~)). It may ((~~further~~)) hold hearings and explore ways to improve the mobility of the citizenry. ((~~At least every five years, the commission shall convene regional forums to gather citizen input on transportation issues.~~

~~(2) Every two years, in coordination with the development of the state biennial budget, the commission shall prepare the statewide multimodal transportation progress report that outlines the transportation priorities of the ensuing biennium. The report must:~~

~~(a) Consider the citizen input gathered at the forums;~~

~~(b) Be developed with the assistance of state transportation-related agencies and organizations;~~

~~(c) Be developed with the input from state, local, and regional jurisdictions, transportation service providers, and key transportation stakeholders;~~

~~(d) Be considered by the secretary of transportation and other state transportation-related agencies in preparing proposed agency budgets and executive request legislation;~~

~~(e) Be submitted by the commission to the governor by October 1st of each even-numbered year for consideration by the governor.~~

~~(3) In fulfilling its responsibilities under this section, the commission may create ad hoc committees or other such committees of limited duration as necessary.~~

~~(4)~~)) (2) In order to promote a better transportation system, the commission ((~~shall offer policy guidance and~~)) may make recommendations to the governor and the legislature in key issue areas, including but not limited to:

(a) Transportation finance;

(b) Preserving, maintaining, and operating the statewide transportation system;

(c) Transportation infrastructure needs;

(d) Promoting best practices for adoption and use by transportation-related agencies and programs;

(e) Transportation efficiencies that will improve service delivery and/or coordination;

(f) Improved planning and coordination among transportation agencies and providers; and

(g) Use of intelligent transportation systems and other technology-based solutions.

Sec. 6. RCW 47.01.091 and 1977 ex.s. c 151 s 9 are each amended to read as follows:

The secretary shall establish such advisory councils as are necessary to carry out the purposes of this ((~~1977 amendatory act~~)) title, and to insure adequate public participation in the planning and development of transportation facilities. Members of such councils shall serve at the pleasure of the secretary and may receive per diem and necessary expenses, in accordance with RCW 43.03.050 and 43.03.060, as now or hereafter amended.

Sec. 7. RCW 47.01.101 and 2005 c 319 s 7 are each amended to read as follows:

The secretary shall have the authority and it shall be his or her duty:

(1) To serve as chief executive officer of the department with full administrative authority to direct all its activities;

(2) To organize the department as he or she may deem necessary to carry out the work and responsibilities of the department effectively;

(3) To designate and establish such transportation district, region, or branch offices as may be necessary or convenient, and to appoint assistants and delegate any powers, duties, and functions to them or any officer or employee of the department as deemed necessary to administer the department efficiently;

(4) To direct and coordinate the programs of the various divisions of the department to assure that they achieve the greatest possible mutual benefit, produce a balanced overall effort, and eliminate unnecessary duplication of activity;

(5) To adopt all department rules that are subject to the adoption procedures contained in the state administrative procedure act((~~, except rules subject to adoption by the commission pursuant to statute~~));

(6) To maintain and safeguard the official records of the department, including the commission's recorded resolutions and orders;

(7) To provide, under contract or interagency agreement, ((~~full~~)) staff support on a reimbursable basis to the commission to assist it in carrying out its functions, powers, and duties;

(8) To execute and implement the biennial operating budget for the operation of the department in accordance with chapter 43.88 RCW and with legislative appropriation;

(9) To advise the governor, the office of financial management, and the legislature with respect to matters under the jurisdiction of the department; ((~~and~~))

(10) To exercise all other powers and perform all other duties as are now or hereafter provided by law;

(11) To integrate government performance and accountability tools in the planning, coordination, and performance of its duties, including, but not limited to, performance reviews, performance-based budgeting, and quality assessments; and

(12) To prepare a comprehensive and balanced statewide transportation plan which shall be based on the transportation policy adopted by the legislature, applicable state and federal laws, and the biennial priorities of government as adopted by the governor. The plan shall take into account federal law and regulations relating to the planning, construction, and operation of transportation facilities. The secretary shall ensure that local and regional transportation issues are integrated and considered in the plan. The plan shall be submitted to the commission for its review and for it to gather public input.

Sec. 8. RCW 47.01.250 and 1998 c 245 s 92 are each amended to read as follows:

((~~The chief of the Washington state patrol, the director of the traffic safety commission, the executive director of the county road administration board, and the director of licensing are designated as official consultants to the transportation commission so that the goals and activities of their respective agencies which relate to transportation are fully coordinated~~

~~with other related responsibilities of the department of transportation. In this capacity, the chief of the Washington state patrol, the director of the traffic safety commission, the executive director of the county road administration board, and the director of licensing shall consult with the transportation commission and the secretary of transportation on the implications and impacts on the transportation related functions and duties of their respective agencies of any proposed comprehensive transportation plan, program, or policy.~~))

In order to develop fully integrated, balanced, and coordinated transportation plans, programs, and budgets the chief of the Washington state patrol, the director of the traffic safety commission, the executive director of the county road administration board, and the director of licensing shall consult with the secretary of transportation on the matter of relative priorities during the development of their respective agencies' plans, programs, and budgets as they pertain to transportation activities.

Sec. 9. RCW 47.01.280 and 2005 c 319 s 121 are each amended to read as follows:

(1) Upon receiving an application for improvements to an existing state highway or highways pursuant to RCW 43.160.074 from the community economic revitalization board, the ((~~transportation commission~~)) department shall, in a timely manner, determine whether or not the proposed state highway improvements:

(a) Meet the safety and design criteria of the department of transportation;

(b) Will impair the operational integrity of the existing highway system; and

(c) Will affect any other improvements planned by the department((~~, and~~

~~(d) Will be consistent with its policies developed pursuant to RCW 47.01.071~~)).

(2) Upon completion of its determination of the factors contained in subsection (1) of this section and any other factors it deems pertinent, the ((~~transportation commission~~)) department shall forward its approval, as submitted or amended or disapproval of the proposed improvements to the board, along with any recommendation it may wish to make concerning the desirability and feasibility of the proposed development. If the ((~~transportation commission~~)) department disapproves any proposed improvements, it shall specify its reasons for disapproval.

(3) Upon notification from the board of an application's approval pursuant to RCW 43.160.074, the ((~~transportation commission~~)) department shall ((~~direct the department of transportation to~~)) carry out the improvements in coordination with the applicant.

Sec. 10. RCW 47.05.021 and 2005 c 319 s 8 are each amended to read as follows:

(1) The department shall conduct periodic analyses of the entire state highway system((~~,~~)) and report to the ((~~commission~~)) office of financial management and the chairs of the transportation committees of the senate and house of representatives, any subsequent recommendations to subdivide, classify, and subclassify all designated state highways into the following three functional classes:

(a) The "principal arterial system" shall consist of a connected network of rural arterial routes with appropriate extensions into and through urban areas, including all routes designated as part of the interstate system, which serve corridor movements having travel characteristics indicative of substantial statewide and interstate travel;

(b) The "minor arterial system" shall, in conjunction with the principal arterial system, form a rural network of arterial routes linking cities and other activity centers which generate long distance travel, and, with appropriate extensions into and through urban areas, form an integrated network providing interstate and interregional service; and

(c) The "collector system" shall consist of routes which primarily serve the more important intercounty, intracounty, and intraurban travel corridors, collect traffic from the system of local access roads and convey it to the arterial system, and on which, regardless of traffic volume, the predominant travel distances are shorter than on arterial routes.

(2) The ((~~transportation commission~~)) department shall adopt a functional classification of highways. The ((~~commission~~)) department shall consider ((~~the recommendations of the department and testimony~~)) comments from the public and local municipalities. The ((~~commission~~)) department shall give consideration to criteria consistent with this section and federal regulations relating to the functional classification of highways, including but not limited to the following:

(a) Urban population centers within and without the state stratified and ranked according to size;

(b) Important traffic generating economic activities, including but not limited to recreation, agriculture, government, business, and industry;

(c) Feasibility of the route, including availability of alternate routes within and without the state;

(d) Directness of travel and distance between points of economic importance;

(e) Length of trips;

(f) Character and volume of traffic;

(g) Preferential consideration for multiple service which shall include public transportation;

(h) Reasonable spacing depending upon population density; and

(i) System continuity.

(3) The ((~~transportation commission~~)) department or the legislature shall designate state highways of statewide significance under RCW 47.06.140. If the ((~~commission~~)) department designates a state highway of statewide significance, it shall submit a list of such facilities for adoption by the legislature. This statewide system shall include at a minimum interstate highways and other statewide principal arterials that are needed to connect major communities across the state and support the state's economy.

(4) The ((~~transportation commission~~)) department shall designate a freight and goods transportation system. This statewide system shall include state highways, county roads, and city streets. The ((~~commission~~)) department, in cooperation with cities and counties, shall review and make recommendations to the legislature regarding policies governing weight restrictions and road closures which affect the transportation of freight and goods.

Sec. 11. RCW 47.05.030 and 2005 c 319 s 9 are each amended to read as follows:

The ((~~transportation commission~~)) department, in consultation with the office of financial management, shall ((~~adopt~~)) develop a comprehensive ((~~ten-year~~)) sixteen-year investment program specifying program objectives and performance measures for the preservation and improvement programs defined in this section. The ((~~adopted ten-year~~)) sixteen-year investment program must be forwarded as a recommendation to the governor and the legislature. In the specification of investment program objectives and performance measures, the ((~~transportation commission, in consultation with the Washington state~~)) department ((~~of transportation,~~)) shall define and adopt standards for effective programming and prioritization practices including a needs analysis process. The analysis process must ensure the identification of problems and deficiencies, the evaluation of alternative solutions and trade-offs, and estimations of the costs and benefits of prospective projects. ((~~The investment program must be revised based on directions by the office of financial management.~~)) The investment program must be based upon the needs identified in the state-owned highway component of the statewide

comprehensive transportation plan ((~~as defined in RCW 47.01.071(3)~~)).

(1) The preservation program consists of those investments necessary to preserve the existing state highway system and to restore existing safety features, giving consideration to lowest life-cycle costing. The preservation program must require use of the most cost-effective pavement surfaces, considering:

(a) Life-cycle cost analysis;

(b) Traffic volume;

(c) Subgrade soil conditions;

(d) Environmental and weather conditions;

(e) Materials available; and

(f) Construction factors.

The comprehensive ((~~ten-year~~)) sixteen-year investment program for preservation must identify projects for two years and an investment plan for the remaining eight years.

(2) The improvement program consists of investments needed to address identified deficiencies on the state highway system to increase mobility, address congestion, and improve safety, support for the economy, and protection of the environment. The ((~~ten-year~~)) sixteen-year investment program for improvements must identify projects for two years and major deficiencies proposed to be addressed in the ((~~ten-year~~)) sixteen-year period giving consideration to relative benefits and life-cycle costing. The ((~~transportation commission~~)) program shall give higher priority for correcting identified deficiencies on those facilities classified as facilities of statewide significance as defined in RCW 47.06.140. Project prioritization must be based primarily upon cost-benefit analysis, where appropriate.

The ((~~transportation commission~~)) department shall ((~~approve and present~~)) submit the comprehensive ((~~ten-year~~)) sixteen-year investment program to the governor and the legislature as directed by the office of financial management.

Sec. 12. RCW 47.05.035 and 2005 c 319 s 10 are each amended to read as follows:

(1) The department shall use the transportation demand modeling tools developed under subsection (2) of this section to evaluate investments based on the best mode or improvement, or mix of modes and improvements, to meet current and future long-term demand within a corridor or system for the lowest cost. The end result of these demand modeling tools is to provide a cost-benefit analysis by which the department can determine the relative mobility improvement and congestion relief each mode or improvement under consideration will provide and the relative investment each mode or improvement under consideration will need to achieve that relief.

(2) The department will participate in the refinement, enhancement, and application of existing transportation demand modeling tools to be used to evaluate investments. This participation and use of transportation demand modeling tools will be phased in.

(3) In developing program objectives and performance measures, the department shall evaluate investment trade-offs between the preservation and improvement programs. In making these investment trade-offs, the department shall evaluate, using cost-benefit techniques, roadway and bridge maintenance activities as compared to roadway and bridge preservation program activities and adjust those programs accordingly.

(4) The department shall allocate the estimated revenue between preservation and improvement programs giving primary consideration to the following factors:

(a) The relative needs in each of the programs and the system performance levels that can be achieved by meeting these needs;

(b) The need to provide adequate funding for preservation to protect the state's investment in its existing highway system;

(c) The continuity of future transportation development with those improvements previously programmed; and

(d) The availability of dedicated funds for a specific type of work.

(5) The ((~~commission~~)) office of financial management shall review the results of the department's findings and shall consider those findings in the development of the ((~~ten-year~~)) sixteen-year program.

Sec. 13. RCW 47.05.051 and 2005 c 319 s 11 are each amended to read as follows:

((~~(1)~~)) The comprehensive ((~~ten-year~~)) sixteen-year investment program shall be based upon the needs identified in the state-owned highway component of the statewide ((~~multimodal~~)) comprehensive transportation plan ((~~as defined in RCW 47.01.071(4)~~)) and priority selection systems that incorporate the following criteria:

((~~(a)~~)) (1) Priority programming for the preservation program shall take into account the following, not necessarily in order of importance:

((~~(i)~~)) (a) Extending the service life of the existing highway system, including using the most cost-effective pavement surfaces, considering:

((~~(A)~~)) (i) Life-cycle cost analysis;

((~~(B)~~)) (ii) Traffic volume;

((~~(C)~~)) (iii) Subgrade soil conditions;

((~~(D)~~)) (iv) Environmental and weather conditions;

((~~(E)~~)) (v) Materials available; and

((~~(F)~~)) (vi) Construction factors;

((~~(ii)~~)) (b) Ensuring the structural ability to carry loads imposed upon highways and bridges; and

((~~(iii)~~)) (c) Minimizing life-cycle costs. ((~~The transportation commission in carrying out the provisions of this section may delegate to the department of transportation the authority to select preservation projects to be included in the ten-year program.~~

~~(b)~~)) (2) Priority programming for the improvement program must be based primarily upon the following, not necessarily in order of importance:

((~~(i)~~)) (a) Traffic congestion, delay, and accidents;

((~~(ii)~~)) (b) Location within a heavily traveled transportation corridor;

((~~(iii)~~)) (c) Except for projects in cities having a population of less than five thousand persons, synchronization with other potential transportation projects, including transit and multimodal projects, within the heavily traveled corridor; and

((~~(iv)~~)) (d) Use of benefit/cost analysis wherever feasible to determine the value of the proposed project.

((~~(c)~~)) (3) Priority programming for the improvement program may also take into account:

((~~(i)~~)) (a) Support for the state's economy, including job creation and job preservation;

((~~(ii)~~)) (b) The cost-effective movement of people and goods;

((~~(iii)~~)) (c) Accident and accident risk reduction;

((~~(iv)~~)) (d) Protection of the state's natural environment;

((~~(v)~~)) (e) Continuity and systematic development of the highway transportation network;

((~~(vi)~~)) (f) Consistency with local comprehensive plans developed under chapter 36.70A RCW including the following if they have been included in the comprehensive plan:

((~~(A)~~)) (i) Support for development in and revitalization of existing downtowns;

((~~(B)~~)) (ii) Extent that development implements local comprehensive plans for rural and urban residential and nonresidential densities;

((~~(C)~~)) (iii) Extent of compact, transit-oriented development for rural and urban residential and nonresidential densities;

((~~(D)~~)) (iv) Opportunities for multimodal transportation; and

((~~(E)~~)) (v) Extent to which the project accommodates planned growth and economic development;

((~~(vii)~~)) (g) Consistency with regional transportation plans developed under chapter 47.80 RCW;

((~~(viii)~~)) (h) Public views concerning proposed improvements;

((~~(ix)~~)) (i) The conservation of energy resources;

((~~(x)~~)) (j) Feasibility of financing the full proposed improvement;

((~~(xi)~~)) (k) Commitments established in previous legislative sessions;

((~~(xii)~~)) (l) Relative costs and benefits of candidate programs.

((~~(d) Major projects addressing capacity deficiencies which prioritize allowing for preliminary engineering shall be reprioritized during the succeeding biennium, based upon updated project data. Reprioritized projects may be delayed or canceled by the transportation commission if higher priority projects are awaiting funding.~~

~~(e) Major project approvals which significantly increase a project's scope or cost from original prioritization estimates shall include a review of the project's estimated revised priority rank and the level of funding provided. Projects may be delayed or canceled by the transportation commission if higher priority projects are awaiting funding.~~

~~(2) The commission may depart from the priority programming established under subsection (1) of this section: (a) To the extent that otherwise funds cannot be utilized feasibly within the program; (b) as may be required by a court judgment, legally binding agreement, or state and federal laws and regulations; (c) as may be required to coordinate with federal, local, or other state agency construction projects; (d) to take advantage of some substantial financial benefit that may be available; (e) for continuity of route development; or (f) because of changed financial or physical conditions of an unforeseen or emergent nature. The commission or secretary of transportation shall maintain in its files information sufficient to show the extent to which the commission has departed from the established priority.~~

~~(3) The commission shall identify those projects that yield freight mobility benefits or that alleviate the impacts of freight mobility upon affected communities.~~))

Sec. 14. RCW 36.57A.191 and 2003 c 363 s 304 are each amended to read as follows:

As a condition of receiving state funding, a public transportation benefit area authority shall submit a maintenance and preservation management plan for certification by the ((~~transportation commission or its successor entity~~)) department of transportation's office of transit mobility. The plan must inventory all transportation system assets within the direction and control of the authority, and provide a preservation plan based on lowest life-cycle cost methodologies.

Sec. 15. RCW 36.78.121 and 2003 c 363 s 307 are each amended to read as follows:

The county road administration board, or its successor entity, shall establish a standard of good practice for maintenance of transportation system assets. This standard must be implemented by all counties no later than December 31, 2007. The board shall develop a model maintenance management system for use by counties. The board shall develop rules to assist the counties in the implementation of this system. Counties shall annually submit their maintenance plans to the board. The board shall compile the county data regarding maintenance management and annually submit it to the ((~~transportation commission or its successor entity~~)) department of transportation's office of transit mobility.

Sec. 16. RCW 36.79.120 and 1988 c 26 s 6 are each amended to read as follows:

Counties receiving funds from the rural arterial trust account for construction of arterials and the construction of replacement bridges funded by the federal bridge replacement program on access roads in rural areas shall provide such matching funds as established by rules recommended by the board, subject to review, revision, and final approval by the ((~~state~~)) department of transportation ((~~commission~~)). Matching requirements shall be established after appropriate studies by the board, taking into account financial resources available to counties to meet arterial needs.

Sec. 17. RCW 36.79.130 and 1983 1st ex.s. c 49 s 13 are each amended to read as follows:

Not later than November 1st of each even-numbered year the board shall prepare and present to the ((~~state~~)) department of transportation ((~~commission~~)) a recommended budget for expenditures from the rural arterial trust account during the ensuing biennium. The budget shall contain an estimate of the revenues to be credited to the rural arterial trust account.

The ((~~state transportation commission~~)) department shall review the budget as recommended, revise the budget as it deems proper, and include the budget as revised as a separate section of the transportation budget which it shall submit to the governor pursuant to chapter 43.88 RCW.

Sec. 18. RCW 36.120.020 and 2002 c 56 s 102 are each amended to read as follows:

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

(1) "Board" means the governing body of a regional transportation investment district.

(2) "Department" means the Washington state department of transportation.

(3) "Highway of statewide significance" means an existing or proposed state route or federal interstate designated as a highway of statewide significance by the transportation commission, ((~~its successor entity~~)) the department, or the legislature.

(4) "Lead agency" means a public agency that by law can plan, design, and build a transportation project and has been so designated by the district.

(5) "Regional transportation investment district" or "district" means a municipal corporation whose boundaries are coextensive with two or more contiguous counties and that has been created by county legislative authorities and a vote of the people under this chapter to implement a regional transportation investment plan.

(6) "Regional transportation investment district planning committee" or "planning committee" means the advisory committee created under RCW 36.120.030 to create and propose to county legislative authorities a regional transportation investment plan to develop, finance, and construct transportation projects.

(7) "Regional transportation investment plan" or "plan" means a plan to develop, construct, and finance a transportation project or projects.

(8) "Transportation project" means:

(a) A capital improvement or improvements to a highway that has been designated, in whole or in part, as a highway of statewide significance, including an extension, that:

(i) Adds a lane or new lanes to an existing state or federal highway; or

(ii) Repairs or replaces a lane or lanes damaged by an event declared an emergency by the governor before January 1, 2002.

(b) A capital improvement or improvements to all or a portion of a highway of statewide significance, including an extension, and may include the following associated multimodal capital improvements:

(i) Approaches to highways of statewide significance;

(ii) High-occupancy vehicle lanes;

(iii) Flyover ramps;

(iv) Park and ride lots;

(v) Bus pullouts;

(vi) Vans for vanpools;

(vii) Buses; and

(viii) Signalization, ramp metering, and other transportation system management improvements.

(c) A capital improvement or improvements to all or a portion of a city street, county road, or existing highway or the

creation of a new highway that intersects with a highway of statewide significance, if all of the following conditions are met:

(i) The project is included in a plan that makes highway improvement projects that add capacity to a highway or highways of statewide significance;

(ii) The secretary of transportation determines that the project would better relieve traffic congestion than investing that same money in adding capacity to a highway of statewide significance;

(iii) Matching money equal to one-third of the total cost of the project is provided by local entities, including but not limited to a metropolitan planning organization, county, city, port, or private entity in which a county participating in a plan is located. Local entities may use federal grants to meet this matching requirement;

(iv) In no case may the cumulative regional transportation investment district contribution to all projects constructed under this subsection (8)(c) exceed ten percent of the revenues generated by the district;

(v) In no case may the cumulative regional transportation investment district contribution to all projects constructed under this subsection (8)(c) exceed one billion dollars; and

(vi) The specific projects are included within the plan and submitted as part of the plan to a vote of the people.

(d) Operations, preservation, and maintenance are excluded from this definition and may not be included in a regional transportation investment plan.

(9) "Weighted vote" means a vote that reflects the population each board or planning committee member represents relative to the population represented by the total membership of the board or planning committee. Population will be determined using the federal 2000 census or subsequent federal census data.

Sec. 19. RCW 36.120.060 and 2002 c 56 s 106 are each amended to read as follows:

(1) The planning committee shall consider the following criteria for selecting transportation projects to improve corridor performance:

(a) Reduced level of congestion and improved safety;

(b) Improved travel time;

(c) Improved air quality;

(d) Increases in daily and peak period person and vehicle trip capacity;

(e) Reductions in person and vehicle delay;

(f) Improved freight mobility; and

(g) Cost-effectiveness of the investment.

(2) These criteria represent only minimum standards that must be considered in selecting transportation improvement projects. The board shall also consider rules and standards for benchmarks adopted by the ((~~transportation commission or its successor~~)) department as approved by the office of financial management.

Sec. 20. RCW 43.10.101 and 2005 c 319 s 104 are each amended to read as follows:

The attorney general shall prepare annually a report to the transportation committees of the legislature, ((~~the transportation commission~~)) the governor, the office of financial management, and ((~~the transportation performance audit board~~)) the Washington state department of transportation comprising a comprehensive summary of all cases involving tort claims against the department of transportation involving highways which were concluded and closed in the previous calendar year. The report shall include for each case closed:

(1) A summary of the factual background of the case;

(2) Identification of the attorneys representing the state and the opposing parties;

(3) A synopsis of the legal theories asserted and the defenses presented;

(4) Whether the case was tried, settled, or dismissed, and in whose favor;

(5) The approximate number of attorney hours expended by the state on the case, together with the corresponding dollar amount billed therefore; and

(6) Such other matters relating to the case as the attorney general deems relevant or appropriate, especially including any comments or recommendations for changes in statute law or agency practice that might effectively reduce the exposure of the state to such tort claims.

Sec. 21. RCW 46.44.042 and 1996 c 116 s 1 are each amended to read as follows:

Subject to the maximum gross weights specified in RCW 46.44.041, it is unlawful to operate any vehicle upon the public highways with a gross weight, including load, upon any tire concentrated upon the surface of the highway in excess of six hundred pounds per inch width of such tire. An axle manufactured after July 31, 1993, carrying more than ten thousand pounds gross weight must be equipped with four or more tires. ((~~Effective January 1, 1997,~~)) An axle carrying more than ten thousand pounds gross weight must have four or more tires, regardless of date of manufacture. Instead of the four or more tires per axle requirements of this section, an axle may be equipped with two tires limited to five hundred pounds per inch width of tire. This section does not apply to vehicles operating under oversize or overweight permits, or both, issued under RCW 46.44.090, while carrying a nonreducible load.

The following equipment may operate at six hundred pounds per inch width of tire: (1) A nonliftable steering axle or axles on the power unit; (2) a tiller axle on fire fighting apparatus; (3) a rear booster trailing axle equipped with two tires on a ready-mix concrete transit truck; and (4) a straddle trailer manufactured before January 1, 1996, equipped with single-tire axles or a single axle using a walking beam supported by two in-line single tires and used exclusively for the transport of fruit bins between field, storage, and processing. A straddle trailer manufactured after January 1, 1996, meeting this use criteria may carry five hundred fifteen pounds per inch width of tire on sixteen and one-half inch wide tires.

For the purpose of this section, the width of tire in case of solid rubber or hollow center cushion tires, so long as the use thereof may be permitted by the law, shall be measured between the flanges of the rim. For the purpose of this section, the width of tires in case of pneumatic tires shall be the maximum overall normal inflated width as stipulated by the manufacturer when inflated to the pressure specified and without load thereon.

The department of transportation, ((~~under rules adopted by the transportation commission~~)) by rule with respect to state highways, and a local authority, with respect to a public highway under its jurisdiction, may extend the weight table in RCW 46.44.041 to one hundred fifteen thousand pounds. However, the extension must be in compliance with federal law, and vehicles operating under the extension must be in full compliance with the 1997 axle and tire requirements under this section.

Sec. 22. RCW 46.44.080 and 1977 ex.s. c 151 s 29 are each amended to read as follows:

Local authorities with respect to public highways under their jurisdiction may prohibit the operation thereon of motor trucks or other vehicles or may impose limits as to the weight thereof, or any other restrictions as may be deemed necessary, whenever any such public highway by reason of rain, snow, climatic or other conditions, will be seriously damaged or destroyed unless the operation of vehicles thereon be prohibited or restricted or the permissible weights thereof reduced: PROVIDED, That whenever a highway has been closed generally to vehicles or specified classes of vehicles, local authorities shall by general rule or by special permit authorize the operation thereon of school buses, emergency vehicles, and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under such weight and speed restrictions as the local authorities deem necessary to protect the highway from undue

damage: PROVIDED FURTHER, That the governing authorities of incorporated cities and towns shall not prohibit the use of any city street designated ((~~by the transportation commission as forming~~)) a part of the route of any primary state highway through any such incorporated city or town by vehicles or any class of vehicles or impose any restrictions or reductions in permissible weights unless such restriction, limitation, or prohibition, or reduction in permissible weights be first approved in writing by the department of transportation.

The local authorities imposing any such restrictions or limitations, or prohibiting any use or reducing the permissible weights shall do so by proper ordinance or resolution and shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution in each end of the portion of any public highway affected thereby, and no such ordinance or resolution shall be effective unless and until such signs are erected and maintained.

The department shall have the same authority as hereinabove granted to local authorities to prohibit or restrict the operation of vehicles upon state highways. The department shall give public notice of closure or restriction. The department may issue special permits for the operation of school buses and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under specified weight and speed restrictions as may be necessary to protect any state highway from undue damage.

Sec. 23. RCW 46.44.090 and 2001 c 262 s 1 are each amended to read as follows:

The department of transportation, pursuant to its rules ((~~adopted by the transportation commission~~)) with respect to state highways, and local authorities, with respect to public highways under their jurisdiction, may, upon application in writing and good cause being shown therefor, issue a special permit in writing, or electronically, authorizing the applicant to operate or move a vehicle or combination of vehicles of a size, weight of vehicle, or load exceeding the maximum set forth in RCW 46.44.010, 46.44.020, 46.44.030, 46.44.034, and 46.44.041 upon any public highway under the jurisdiction of the authority granting such permit and for the maintenance of which such authority is responsible.

Sec. 24. RCW 46.44.092 and 1989 c 398 s 2 are each amended to read as follows:

Special permits may not be issued for movements on any state highway outside the limits of any city or town in excess of the following widths:

On two-lane highways, fourteen feet;

On multiple-lane highways where a physical barrier serving as a median divider separates opposing traffic lanes, twenty feet;

On multiple-lane highways without a physical barrier serving as a median divider, thirty-two feet.

These limits apply except under the following conditions:

(1) In the case of buildings, the limitations referred to in this section for movement on any two lane state highway other than the national system of interstate and defense highways may be exceeded under the following conditions: (a) Controlled vehicular traffic shall be maintained in one direction at all times; (b) the maximum distance of movement shall not exceed five miles; additional contiguous permits shall not be issued to exceed the five-mile limit: PROVIDED, That when the department of transportation((~~, pursuant to general rules adopted by the transportation commission,~~)) determines a hardship would result, this limitation may be exceeded upon approval of the department of transportation; (c) prior to issuing a permit a qualified transportation department employee shall make a visual inspection of the building and route involved determining that the conditions listed herein shall be complied with and that structures or overhead obstructions may be cleared or moved in order to maintain a constant and uninterrupted movement of the building; (d) special escort or other precautions may be imposed to assure movement is made under the safest possible conditions, and the Washington state patrol shall be advised when and where the movement is to be made;

(2) Permits may be issued for widths of vehicles in excess of the preceding limitations on highways or sections of highways which have been designed and constructed for width in excess of such limitations;

(3) Permits may be issued for vehicles with a total outside width, including the load, of nine feet or less when the vehicle is equipped with a mechanism designed to cover the load pursuant to RCW 46.61.655;

(4) These limitations may be rescinded when certification is made by military officials, or by officials of public or private power facilities, or when in the opinion of the department of transportation the movement or action is a necessary movement or action: PROVIDED FURTHER, That in the judgment of the department of transportation the structures and highway surfaces on the routes involved are capable of sustaining widths in excess of such limitation;

(5) These limitations shall not apply to movement during daylight hours on any two lane state highway where the gross weight, including load, does not exceed eighty thousand pounds and the overall width of load does not exceed sixteen feet: PROVIDED, That the minimum and maximum speed of such movements, prescribed routes of such movements, the times of such movements, limitation upon frequency of trips (which limitation shall be not less than one per week), and conditions to assure safety of traffic may be prescribed by the department of transportation or local authority issuing such special permit.

The applicant for any special permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular state highways for which permit to operate is requested and whether such permit is requested for a single trip or for continuous operation.

Sec. 25. RCW 46.44.096 and 1996 c 92 s 1 are each amended to read as follows:

In determining fees according to RCW 46.44.0941, mileage on state primary and secondary highways shall be determined from the planning survey records of the department of transportation, and the gross weight of the vehicle or vehicles, including load, shall be declared by the applicant. Overweight on which fees shall be paid will be gross loadings in excess of loadings authorized by law or axle loadings in excess of loadings authorized by law, whichever is the greater. Loads which are overweight and oversize shall be charged the fee for the overweight permit without additional fees being assessed for the oversize features.

Special permits issued under RCW 46.44.047, 46.44.0941, or 46.44.095, may be obtained from offices of the department of transportation, ports of entry, or other agents appointed by the department.

The department may appoint agents for the purposes of selling special motor vehicle permits, temporary additional tonnage permits, and log tolerance permits. Agents so appointed may retain three dollars and fifty cents for each permit sold to defray expenses incurred in handling and selling the permits. If the fee is collected by the department of transportation, the department shall certify the fee so collected to the state treasurer for deposit to the credit of the motor vehicle fund.

The department may select a third party contractor, by means of competitive bid, to perform the department's permit issuance function, as provided under RCW 46.44.090. Factors the department shall consider, but is not limited to, in the selection of a third party contractor are economic benefit to both the department and the motor carrier industry, and enhancement of the overall level of permit service. For purposes of this section, "third party contractor" means a business entity that is authorized by the department to issue special permits. The department of transportation ((~~commission~~)) may adopt rules specifying the criteria that a business entity must meet in order to qualify as a third party contractor under this section.

Fees established in RCW 46.44.0941 shall be paid to the political body issuing the permit if the entire movement is to be confined to roads, streets, or highways for which that political body is responsible. When a movement involves a combination of state highways, county roads, and/or city streets the fee shall be paid to the ((~~state~~)) department of transportation. When a movement is confined within the city limits of a city or town upon city streets, including routes of state highways on city streets, all fees shall be paid to the city or town involved. A permit will not be required from city or town authorities for a move involving a combination of city or town streets and state highways when the move through a city or town is being confined to the route of the state highway. When a move involves a combination of county roads and city streets the fee shall be paid to the county authorities, but the fee shall not be collected nor the county permit issued until valid permits are presented showing that the city or town authorities approve of the move in question. When the movement involves only county roads the fees collected shall be paid to the county involved. Fees established shall be paid to the political body issuing the permit if the entire use of the vehicle during the period covered by the permit shall be confined to the roads, streets, or highways for which that political body is responsible.

Sec. 26. RCW 46.61.450 and 1977 ex.s. c 151 s 39 are each amended to read as follows:

It shall be unlawful for any person to operate a vehicle or any combination of vehicles over any bridge or other elevated structure or through any tunnel or underpass constituting a part of any public highway at a rate of speed or with a gross weight or of a size which is greater at any time than the maximum speed or maximum weight or size which can be maintained or carried with safety over any such bridge or structure or through any such tunnel or underpass when such bridge, structure, tunnel, or underpass is sign posted as hereinafter provided. The secretary of transportation, if it be a bridge, structure, tunnel, or underpass upon a state highway, or the governing body or authorities of any county, city, or town, if it be upon roads or streets under their jurisdiction, may restrict the speed which may be maintained or the gross weight or size which may be operated upon or over any such bridge or elevated structure or through any such tunnel or underpass with safety thereto. The secretary or the governing body or authorities of any county, city, or town having jurisdiction shall determine and declare the maximum speed or maximum gross weight or size which such bridge, elevated structure, tunnel, or underpass can withstand or accommodate and shall cause suitable signs stating such maximum speed or maximum gross weight, or size, or either, to be erected and maintained on the right hand side of such highway, road, or street and at a distance of not less than one hundred feet from each end of such bridge, structure, tunnel, or underpass and on the approach thereto: PROVIDED, That in the event that any such bridge, elevated structure, tunnel, or underpass is upon a city street designated by the department of transportation ((~~commission~~)) as forming a part of the route of any state highway through any such incorporated city or town the determination of any maximum speed or maximum gross weight or size which such bridge, elevated structure, tunnel, or underpass can withstand or accommodate shall not be enforceable at any speed, weight, or size less than the maximum allowed by law, unless with the approval in writing of the secretary. Upon the trial of any person charged with a violation of this section, proof of either violation of maximum speed or maximum weight, or size, or either, and the distance and location of such signs as are required, shall constitute conclusive evidence of the maximum speed or maximum weight, or size, or either, which can be maintained or carried with safety over such bridge or elevated structure or through such tunnel or underpass.

Sec. 27. RCW 46.68.113 and 2003 c 363 s 305 are each amended to read as follows:

During the 2003-2005 biennium, cities and towns shall provide to the transportation commission, or its successor entity, preservation rating information on at least seventy percent of the total city and town arterial network. Thereafter, the preservation rating information requirement shall increase in five percent increments in subsequent biennia. The rating system used by cities and towns must be based upon the Washington state pavement rating method or an equivalent standard approved by the department of transportation ((~~commission or its successor entity~~)). Beginning January 1, 2007, the preservation rating information shall be submitted to the department.

Sec. 28. RCW 47.68.410 and 2005 c 316 s 3 are each amended to read as follows:

(1) Upon completion of both the statewide assessment and analysis required under RCW 47.68.390 and 47.68.400, and to the extent funds are appropriated to the department for this purpose, the governor shall appoint an aviation planning council to consist of the following members: (a) The director of the aviation division of the department of transportation, or a designee; (b) the director of the department of community, trade, and economic development, or a designee; (c) ((~~a member of the transportation commission,~~)) an at large who shall be the chair of the council; (d) two members of the general public familiar with airport issues, including the impacts of airports on communities, one of whom must be from western Washington and one of whom must be from eastern Washington; (e) a technical expert familiar with federal aviation administration airspace and control issues; (f) a commercial airport operator; (g) a member of a growth management hearings board; (h) a representative of the Washington airport management association; and (i) an airline representative. The chair of the council may designate another councilmember to serve as the acting chair in the absence of the chair. The department of transportation shall provide all administrative and staff support for the council.

(2) The purpose of the council is to make recommendations, based on the findings of the assessment and analysis completed under RCW 47.68.390 and 47.68.400, regarding how best to meet the statewide commercial and general aviation capacity needs, as determined by the council. The council shall determine which regions of the state are in need of improvement regarding the matching of existing, or projected, airport facilities, and the long-range capacity needs at airports within the region expected to reach capacity before the year 2030. After determining these areas, the council shall make recommendations regarding the placement of future commercial and general aviation airport facilities designed to meet the need for improved aviation planning in the region. The council shall include public input in making final recommendations.

(3) The council shall submit its recommendations to the appropriate standing committees of the legislature, the governor, ((~~the transportation commission,~~)) and applicable regional transportation planning organizations.

(4) This section expires July 1, 2009.

Sec. 29. RCW 47.28.010 and 1977 ex.s. c 151 s 59 are each amended to read as follows:

Whenever the general route of any state highway shall be designated and laid out as running to or by way of certain designated points, without specifying the particular route to be followed to or by way of such points, the ((~~transportation commission~~)) department shall determine the particular route to be followed by said state highway to or by way of said designated points, and shall be at liberty to select and adopt as a part of such state highway, the whole or any part of any existing public highway previously designated as a county road, primary road, or secondary road or now or hereafter classified as a county road. The ((~~commission~~)) department need not select and adopt the entire routes for such state highways at one time, but may select and adopt parts of such routes from time to time as it deems advisable. Where a state highway is designated as passing by way of a certain point, this shall not require the ((~~commission~~)) department to cause such state highway to pass

through or touch such point but such designation is directional only and may be complied with by location in the general vicinity. The department ((~~of transportation~~)) is empowered to construct as a part of any state highway as designated and in addition to any portion meeting the limits of any incorporated city or town a bypass section either through or around any such incorporated city or town.

Sec. 30. RCW 47.28.170 and 1990 c 265 s 1 are each amended to read as follows:

(1) Whenever the department finds that as a consequence of accident, natural disaster, or other emergency, an existing state highway is in jeopardy or is rendered impassible in one or both directions and the department further finds that prompt reconstruction, repair, or other work is needed to preserve or restore the highway for public travel, the department may obtain at least three written bids for the work without publishing a call for bids, and the secretary of transportation may award a contract forthwith to the lowest responsible bidder.

The department shall notify any association or organization of contractors filing a request to regularly receive notification. Notification to an association or organization of contractors shall include: (a) The location of the work to be done; (b) the general anticipated nature of the work to be done; and (c) the date determined by the department as reasonable in view of the nature of the work and emergent nature of the problem after which the department will not receive bids.

(2) Whenever the department finds it necessary to protect a highway facility from imminent damage or to perform emergency work to reopen a highway facility, the department may contract for such work on a negotiated basis not to exceed force account rates for a period not to exceed thirty working days.

(3) The secretary shall review any contract exceeding ((~~two~~)) seven hundred thousand dollars awarded under subsection (1) or (2) of this section with the ((~~transportation commission at its next regularly scheduled meeting~~)) office of financial management within thirty days of the contract award.

(4) Any person, firm, or corporation awarded a contract for work must be prequalified pursuant to RCW 47.28.070 and may be required to furnish a bid deposit or performance bond.

Sec. 31. RCW 47.38.060 and 1996 c 172 s 1 are each amended to read as follows:

The ((~~transportation commission~~)) department may designate interstate safety rest areas, as appropriate, as locations for memorial signs to prisoners of war and those missing in action. The ((~~commission~~)) department shall adopt policies for the placement of memorial signs on interstate safety rest areas and may disapprove any memorial sign that it determines to be inappropriate or inconsistent with the policies. The policies shall include, but are not limited to, guidelines for the size and location of and inscriptions on memorial signs. The secretary shall adopt rules for administering this program. Nonprofit associations may have their name identified on a memorial sign if the association bears the cost of supplying and maintaining the memorial sign.

Sec. 32. RCW 47.52.133 and 1987 c 200 s 2 are each amended to read as follows:

Except as provided in RCW 47.52.134, the ((~~transportation commission~~)) department and the highway authorities of the counties and incorporated cities and towns, with regard to facilities under their respective jurisdictions, prior to the establishment of any limited access facility, shall hold a public hearing within the county, city, or town wherein the limited access facility is to be established to determine the desirability of the plan proposed by such authority. Notice of such hearing shall be given to the owners of property abutting the section of any existing highway, road, or street being established as a limited access facility, as indicated in the tax rolls of the county, and in the case of a state limited access facility, to the county and/or city or town. Such notice shall be by United States mail in writing, setting forth a time for the hearing, which time shall be not less than fifteen days after mailing of such notice. Notice of such hearing also shall be given by publication not less than fifteen days prior to such hearing in one or more newspapers of general circulation within the county, city, or town. Such notice by publication shall be deemed sufficient as to any owner or reputed owner or any unknown owner or owner who cannot be located. Such notice shall indicate a suitable location where plans for such proposal may be inspected.

Sec. 33. RCW 47.52.145 and 1981 c 95 s 2 are each amended to read as follows:

((~~Whenever~~)) After ((~~the~~)) final adoption of a ((~~plan for a~~)) limited access highway by the ((~~transportation commission~~)) department, an additional design public hearing with respect to the facility or any portion thereof is conducted pursuant to federal law resulting in a revision of the design of the limited access plan, the ((~~commission~~)) department may modify the previously adopted limited access plan to conform to the revised design without further public hearings providing the following conditions are met:

(1) As compared with the previously adopted limited access plan, the revised plan will not require additional or different right of way with respect to that section of highway for which the design has been revised, in excess of five percent by area; and

(2) If the previously adopted limited access plan was modified by a board of review convened at the request of a county, city, or town, the legislative authority of the county, city, or town shall approve any revisions of the plan which conflict with modifications ordered by the board of review.

Sec. 34. RCW 47.52.210 and 1981 c 95 s 3 are each amended to read as follows:

(1) Whenever the ((~~transportation commission~~)) department adopts a plan for a limited access highway to be constructed within the corporate limits of a city or town which incorporates existing city or town streets, title to such streets shall remain in the city or town, and the provisions of RCW 47.24.020 as now or hereafter amended shall continue to apply to such streets until such time that the highway is operated as either a partially or fully controlled access highway. Title to and full control over that portion of the city or town street incorporated into the limited access highway shall be vested in the state upon a declaration by the secretary of transportation that such highway is operational as a limited access facility, but in no event prior to the acquisition of right of way for such highway including access rights, and not later than the final completion of construction of such highway.

(2) Upon the completion of construction of a state limited access highway within a city or town, the department of transportation may relinquish to the city or town streets constructed or improved as a functional part of the limited access highway, slope easements, landscaping areas, and other related improvements to be maintained and operated by the city or town in accordance with the limited access plan. Title to such property relinquished to a city or town shall be conveyed by a deed executed by the secretary of transportation and duly acknowledged. Relinquishment of such property to the city or town may be expressly conditioned upon the maintenance of access control acquired by the state and the continued operation of such property as a functional part of the limited access highway.

Sec. 35. RCW 47.60.330 and 2003 c 374 s 5 are each amended to read as follows:

(1) Before a substantial expansion or curtailment in the level of service provided to ferry users, or a revision in the schedule of ferry tolls or charges, the department ((~~of transportation~~)) shall consult with affected ferry users. The consultation shall be: (a) By public hearing in affected local communities; (b) by review with the affected ferry advisory committees pursuant to RCW 47.60.310; (c) by conducting a survey of affected ferry users; or (d) by any combination of (a) through (c). Promotional, discount, and special event fares that are not part

of the published schedule of ferry charges or tolls are exempt. The department shall report an accounting of all exempt revenues to the transportation commission and the office of financial management each fiscal year.

(2) There is created a ferry system productivity council consisting of a representative of each ferry advisory committee empanelled under RCW 47.60.310, elected by the members thereof, and two representatives of employees of the ferry system appointed by mutual agreement of all of the unions representing ferry employees, which shall meet from time to time with ferry system management to discuss means of improving ferry system productivity.

(3) Before increasing ferry tolls the department of transportation shall consider ((~~all possible~~)) cost reductions with full public participation as provided in subsection (1) of this section and, consistent with public policy, shall consider adapting service levels equitably on a route-by-route basis to reflect trends in and forecasts of traffic usage. ((~~Forecasts of traffic levels shall be developed by the bond covenant traffic engineering firm appointed under the provisions of RCW 47.60.450. Provisions of this section shall not alter obligations under RCW 47.60.450.~~)) Before including any toll increase in a budget proposal ((~~by the commission~~)), the department ((~~of transportation~~)) shall consult with affected ferry users in the manner prescribed in (1)(b) of this section plus the procedure of either (1)(a) or (c) of this section.

Sec. 36. RCW 47.68.390 and 2005 c 316 s 1 are each amended to read as follows:

(1) The aviation division of the department of transportation shall conduct a statewide airport capacity and facilities assessment. The assessment must include a statewide analysis of existing airport facilities, and passenger and air cargo transportation capacity, regarding both commercial aviation and general aviation; however, the primary focus of the assessment must be on commercial aviation. The assessment must at a minimum address the following issues:

(a) Existing airport facilities, both commercial and general aviation, including air side, land side, and airport service facilities;

(b) Existing air and airport capacity, including the number of annual passengers and air cargo operations;

(c) Existing airport services, including fixed based operator services, fuel services, and ground services; and

(d) Existing airspace capacity.

(2) The department shall consider existing information, technical analyses, and other research the department deems appropriate. The department may contract and consult with private independent professional and technical experts regarding the assessment.

(3) The department shall submit the assessment to the appropriate standing committees of the legislature, the governor, ((~~the transportation commission,~~)) and regional transportation planning organizations by July 1, 2006.

Sec. 37. RCW 47.68.400 and 2005 c 316 s 2 are each amended to read as follows:

(1) After submitting the assessment under RCW 47.68.390, the aviation division of the department of transportation shall conduct a statewide airport capacity and facilities market analysis. The analysis must include a statewide needs analysis of airport facilities, passenger and air cargo transportation capacity, and demand and forecast market needs over the next twenty-five years with a more detailed analysis of the Puget Sound, southwest Washington, Spokane, and Tri-Cities regions. The analysis must address the forecasted needs of both commercial aviation and general aviation; however, the primary focus of the analysis must be on commercial aviation. The analysis must at a minimum address the following issues:

(a) A forecast of future airport facility needs based on passenger and air cargo operations and demand, airline planning, and a determination of aviation trends, demographic, geographic, and market factors that may affect future air travel demand;

(b) A determination of when the state's existing commercial service airports will reach their capacity;

(c) The factors that may affect future air travel and when capacity may be reached and in which location;

(d) The role of the state, metropolitan planning organizations, regional transportation planning organizations, the federal aviation administration, and airport sponsors in addressing statewide airport facilities and capacity needs; and

(e) Whether the state, metropolitan planning organizations, regional transportation planning organizations, the federal aviation administration, or airport sponsors have identified options for addressing long-range capacity needs at airports, or in regions, that will reach capacity before the year 2030.

(2) The department shall consider existing information, technical analyses, and other research the department deems appropriate. The department may contract and consult with private independent professional and technical experts regarding the analysis.

(3) The department shall submit the analysis to the appropriate standing committees of the legislature, the governor, ((~~the transportation commission,~~)) and regional transportation planning organizations by July 1, 2007.

Sec. 38. RCW 81.112.086 and 2003 c 363 s 306 are each amended to read as follows:

As a condition of receiving state funding, a regional transit authority shall submit a maintenance and preservation management plan for certification by the ((~~transportation commission or its successor entity~~)) department of transportation's office of transit mobility. The plan must inventory all transportation system assets within the direction and control of the transit authority, and provide a plan for preservation of assets based on lowest life-cycle cost methodologies.

Sec. 39. RCW 35.58.2795 and 1994 c 158 s 6 are each amended to read as follows:

By April 1st of each year, the legislative authority of each municipality, as defined in RCW 35.58.272, and each regional transit authority shall prepare a six-year transit development plan for that calendar year and the ensuing five years. The program shall be consistent with the comprehensive plans adopted by counties, cities, and towns, pursuant to chapter 35.63, 35A.63, or 36.70 RCW, the inherent authority of a first class city or charter county derived from its charter, or chapter 36.70A RCW. The program shall contain information as to how the municipality intends to meet state and local long-range priorities for public transportation, capital improvements, significant operating changes planned for the system, and how the municipality intends to fund program needs. The six-year plan for each municipality and regional transit authority shall specifically set forth those projects of regional significance for inclusion in the transportation improvement program within that region. Each municipality and regional transit authority shall file the six-year program with the state department of transportation's office of transit mobility, the state auditor, the transportation improvement board, and cities, counties, and regional planning councils within which the municipality is located.

In developing its program, the municipality and the regional transit authority shall consider those policy recommendations affecting public transportation contained in the state transportation policy plan ((~~approved by the state transportation commission~~)) and, where appropriate, adopted by the legislature. The municipality shall conduct one or more public hearings while developing its program and for each annual update.

Sec. 40. RCW 36.56.121 and 2003 c 363 s 303 are each amended to read as follows:

As a condition of receiving state funding, a county that has assumed the transportation functions of a metropolitan

municipal corporation shall submit a maintenance and preservation management plan for certification by the ((~~transportation commission or its successor entity~~)) department of transportation's office of transit mobility. The plan must inventory all transportation system assets within the direction and control of the county, and provide a preservation plan based on lowest life-cycle cost methodologies.

Sec. 41. RCW 36.57A.070 and 1985 c 6 s 5 are each amended to read as follows:

The comprehensive transit plan adopted by the authority shall be reviewed by the state ((~~transportation commission to~~)) department of transportation's office of transit mobility and the state auditor. Upon reviewing the plan, the office of transit mobility shall determine:

(1) The completeness of service to be offered and the economic viability of the transit system proposed in such comprehensive transit plan;

(2) Whether such plan integrates the proposed transportation system with existing transportation modes and systems that serve the benefit area;

(3) Whether such plan coordinates that area's system and service with nearby public transportation systems;

(4) Whether such plan is eligible for matching state or federal funds((~~;~~

~~After reviewing the comprehensive transit plan, the state transportation commission shall have sixty days in which to approve such plan and to certify to the state treasurer that such public transportation benefit area shall be eligible to receive the motor vehicle excise tax proceeds authorized pursuant to RCW 35.58.273, as now or hereafter amended in the manner prescribed by chapter 82.44 RCW, as now or hereafter amended. To be approved a plan shall provide for coordinated transportation planning, the integration of such proposed transportation program with other transportation systems operating in areas adjacent to, or in the vicinity of the proposed public transportation benefit area, and be consistent with the public transportation coordination criteria adopted pursuant to the urban mass transportation act of 1964 as amended as of July 1, 1975. In the event such comprehensive plan is disapproved and ruled ineligible to receive motor vehicle tax proceeds, the state transportation commission shall provide written notice to the authority within thirty days as to the reasons for such plan's disapproval and such ineligibility. The authority may resubmit such plan upon reconsideration and correction of such deficiencies in the plan cited in such notice of disapproval~~)).

Sec. 42. RCW 47.29.010 and 2005 c 317 s 1 are each amended to read as follows:

(1) The legislature finds that the public-private ((~~[transportation]~~)) transportation initiatives act created under chapter 47.46 RCW has not met the needs and expectations of the public or private sectors for the development of transportation projects. The legislature intends to phase out chapter 47.46 RCW coincident with the completion of the Tacoma Narrows Bridge - SR 16 public-private partnership. From July 24, 2005, this chapter will provide a more desirable and effective approach to developing transportation projects in partnership with the private sector by applying lessons learned from other states and from this state's ten-year experience with chapter 47.46 RCW.

(2) It is the legislature's intent to achieve the following goals through the creation of this new approach to public-private partnerships:

(a) To provide a well-defined mechanism to facilitate the collaboration between public and private entities in transportation;

(b) To bring innovative thinking from the private sector and other states to bear on public projects within the state;

(c) To provide greater flexibility in achieving the transportation projects; and

(d) To allow for creative cost and risk sharing between the public and private partners.

(3) The legislature intends that the powers granted in this chapter to the commission or department are in addition to any powers granted under chapter 47.56 RCW.

(4) It is further the intent of the legislature that ((~~the commission shall be responsible for receiving, reviewing, and approving proposals with technical support of the department; rule making; and for oversight of contract execution. The department shall be responsible for evaluating proposals and negotiating contracts~~)) an expert review panel be established for each project developed under this act. Expert review panels shall be responsible for reviewing selected proposals, analyzing and reviewing tentative agreements, and making recommendations to the governor on the advisability of executing agreements under this act.

Sec. 43. RCW 47.29.020 and 2005 c 317 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) ((~~"Authority" means the transportation commission.~~

~~(2) "Commission" means the transportation commission.~~

~~(3)~~)) "Department" means the department of transportation.

((~~(4)~~)) (2) "Eligible project" means any project eligible for development under RCW 47.29.050.

((~~(5)~~)) (3) "Eligible public works project" means only a project that meets the criteria of either RCW 47.29.060 (3) or (4).

((~~(6)~~)) (4) "Expert review panel" means a panel established by the governor to review tentative agreements and make recommendations to the governor for approval, rejection, or continued negotiations on a proposed project agreement.

(5) "Private sector partner" and "private partner" ((~~means~~)) mean a person, entity, or organization that is not the federal government, a state, or a political subdivision of a state.

((~~(7)~~)) (6) "Public funds" means all moneys derived from taxes, fees, charges, tolls, etc.

((~~(8)~~)) (7) "Public sector partner" and "public partner" ((~~means~~)) mean any federal or state unit of government, bistate transportation organization, or any other political subdivision of any state.

((~~(9)~~)) (8) "Transportation innovative partnership program" or "program" means the program as outlined in RCW 47.29.040.

((~~(10)~~)) (9) "Transportation project" means a project, whether capital or operating, where the state's primary purpose for the project is to preserve or facilitate the safe transport of people or goods via any mode of travel. However, this does not include projects that are primarily for recreational purposes, such as parks, hiking trails, off-road vehicle trails, etc.

((~~(11)~~)) (10) "Unit of government" means any department or agency of the federal government, any state or agency, office, or department of a state, any city, county, district, commission, authority, entity, port, or other public corporation organized and existing under statutory law or under a voter-approved charter or initiative, and any intergovernmental entity created under chapter 39.34 RCW or this chapter.

Sec. 44. RCW 47.29.030 and 2005 c 317 s 3 are each amended to read as follows:

In addition to the powers it now possesses, the ((~~commission~~)) department shall:

(1) ((~~Approve or review contracts or agreements authorized in this chapter;~~

~~(2)~~)) Adopt rules to carry out this chapter and govern the program, which at a minimum must address the following issues:

(a) The types of projects allowed; however, all allowed projects must be included in the Washington transportation plan or identified by the authority as being a priority need for the state;

(b) The types of contracts allowed, with consideration given to the best practices available;

(c) The composition of the team responsible for the evaluation of proposals to include:

(i) ((~~Washington state~~)) Department ((~~of transportation~~)) staff;

(ii) An independent representative of a consulting or contracting field with no interests in the project that is prohibited from becoming a project manager for the project and bidding on any part of the project;

(iii) An observer from the state auditor's office or the joint legislative audit and review committee;

(iv) A person ((~~appointed by the commission, if the secretary of transportation is a cabinet member, or~~)) appointed by the governor ((~~if the secretary of transportation is not a cabinet member~~)); and

(v) A financial expert;

(d) Minimum standards and criteria required of all proposals;

(e) Procedures for the proper solicitation, acceptance, review, and evaluation of projects;

(f) Criteria to be considered in the evaluation and selection of proposals that includes:

(i) Comparison with the department's internal ability to complete the project that documents the advantages of completing the project as a partnership versus solely as a public venture; and

(ii) Factors such as, but not limited to: Priority, cost, risk sharing, scheduling, and management conditions;

(g) The protection of confidential proprietary information while still meeting the need for public disclosure that is consistent with RCW 47.29.190;

(h) Protection for local contractors to participate in subcontracting opportunities;

(i) Specifying that maintenance issues must be resolved in a manner consistent with the personnel system reform act, chapter 41.80 RCW;

(j) Specifying that provisions regarding patrolling and law enforcement on a public facility are subject to approval by the Washington state patrol;

((~~(3)~~)) (2) Adopt guidelines to address security and performance issues.

Preliminary rules and guidelines developed under this section must be submitted to the chairs and ranking members of both transportation committees by November 30, 2005, for review and comment. All final rules and guidelines must be submitted to the full legislature during the 2006 session for review.

Sec. 45. RCW 47.29.090 and 2005 c 317 s 9 are each amended to read as follows:

(1) Subject to subsection (2) of this section, the ((~~commission~~)) department may:

(a) Solicit concepts or proposals for eligible projects from private entities and units of government;

(b) On or after January 1, 2007, accept unsolicited concepts or proposals for eligible projects from private entities and units of government, subject to RCW 47.29.170;

(c) ((~~Direct the department to~~)) Evaluate projects for inclusion in the transportation innovative partnerships program that are already programmed or identified for traditional development by the state;

(d) ((~~Direct the department to~~)) Evaluate the concepts or proposals received under this section; and

(e) Select potential projects based on the concepts or proposals. The evaluation under this subsection must include consultation with any appropriate unit of government.

(2) Before undertaking any of the activities contained in subsection (1) of this section, the ((~~commission~~)) department must ((~~have~~)):

(a) ((~~Completed~~)) Wait for completion of the tolling feasibility study before proceeding with any projects that might utilize tolls; and

(b) ((~~Adopted~~)) Adopt rules specifying procedures for the proper solicitation, acceptance, review, and evaluation of projects, which procedures must include:

(i) A comparison with the department's internal ability to complete the project that documents the advantages of completing the project as a partnership versus solely as a public venture; and

(ii) Factors such as priority, cost, risk sharing, scheduling, and management conditions.

Sec. 46. RCW 47.29.100 and 2005 c 317 s 10 are each amended to read as follows:

The department may charge a reasonable administrative fee for the evaluation of an unsolicited project proposal. The amount of the fee will be established in rules ((~~of the commission~~)).

Sec. 47. RCW 47.29.120 and 2005 c 317 s 12 are each amended to read as follows:

The ((~~commission and~~)) department may consult with legal, financial, and other experts inside and outside the public sector in the evaluation, negotiation, and development of projects under this chapter, consistent with RCW 43.10.040 where applicable.

Sec. 48. RCW 47.29.160 and 2005 c 317 s 16 are each amended to read as follows:

(1) Before ((~~approving an~~)) approval of any agreement under subsection (2) of this section, ((~~the commission, with the technical assistance of~~)) the department((~~,~~)) must:

(a) Prepare a financial analysis that fully discloses all project costs, direct and indirect, including costs of any financing;

(b) Publish notice and make available the contents of the agreement, with the exception of patent information, at least twenty days before the public hearing required in (c) of this subsection; and

(c) Hold a public hearing on the proposed agreement, with proper notice provided at least twenty days before the hearing. The public hearing must be held within the boundaries of the county seat of the county containing the project.

(2) The ((~~commission~~)) department must allow at least twenty days from the public hearing on the proposed agreement required under subsection (1)(c) of this section before approving and executing any agreements authorized under this chapter.

NEW SECTION. **Sec. 49.** A new section is added to chapter 47.29 RCW to read as follows:

(1) The department shall establish an expert review panel to review, analyze, and make recommendations to the governor on whether to approve, reject, or continue negotiations on a proposed project agreement. The department shall provide staff to support the expert review panel, if requested by the panel. The expert review panel may utilize any of the consultants under contract for the department, and the expert review panel may contract for consulting expertise in specific areas as it deems necessary to ensure a thorough and critical review of any proposed project agreement.

(2) The governor shall appoint members of an expert review panel that have experience in large capital project delivery, public private partnerships, public financing of infrastructure improvements, or other areas of expertise that will benefit the panel. The panel shall consist of no less than three but no more than five members, as determined by the governor.

NEW SECTION. **Sec. 50.** A new section is added to chapter 47.29 RCW to read as follows:

Upon receiving the recommendations of the expert review panel as provided in section 49 of this act, the governor shall execute the proposed project agreement, reject the proposed agreement, or return the agreement for continued negotiations between the state and a private partner. The execution of any agreement or the rejection of any agreement shall constitute a final action for legal or administrative purposes.

Sec. 51. RCW 47.29.170 and 2005 c 317 s 17 are each amended to read as follows:

Before accepting any unsolicited project proposals, the ((~~commission~~)) department must adopt rules to facilitate the

acceptance, review, evaluation, and selection of unsolicited project proposals. These rules must include the following:

(1) Provisions that specify unsolicited proposals must meet predetermined criteria;

(2) Provisions governing procedures for the cessation of negotiations and consideration;

(3) Provisions outlining that unsolicited proposals are subject to a two-step process that begins with concept proposals and would only advance to the second step, which are fully detailed proposals, if the ((~~commission~~)) department so directed;

(4) Provisions that require concept proposals to include at least the following information: Proposers' qualifications and experience; description of the proposed project and impact; proposed project financing; and known public benefits and opposition; and

(5) Provisions that specify the process to be followed if the ((~~commission~~)) department is interested in the concept proposal, which must include provisions:

(a) Requiring that information regarding the potential project would be published for a period of not less than thirty days, during which time entities could express interest in submitting a proposal;

(b) Specifying that if letters of interest were received during the thirty days, then an additional sixty days for submission of the fully detailed proposal would be allowed; and

(c) Procedures for what will happen if there are insufficient proposals submitted or if there are no letters of interest submitted in the appropriate time frame.

The ((~~commission~~)) department may adopt other rules as necessary to avoid conflicts with existing laws, statutes, or contractual obligations of the state.

The ((~~commission~~)) department may not accept or consider any unsolicited proposals before January 1, 2007.

Sec. 52. RCW 47.29.180 and 2005 c 317 s 18 are each amended to read as follows:

For projects with costs, including financing costs, of three hundred million dollars or greater, advisory committees are required.

(1) The ((~~commission~~)) department must ((~~establish~~)) support an advisory committee to advise with respect to eligible projects. An advisory committee must consist of not fewer than five and not more than nine members, as determined by the public partners. Members must be appointed by the ((~~commission~~)) governor, or for projects with joint public sector participation, in a manner agreed to by the ((~~commission~~)) governor and any participating unit of government. In making appointments to the committee, the ((~~commission~~)) department shall consider persons or organizations offering a diversity of viewpoints on the project.

(2) An advisory committee shall review concepts or proposals for eligible projects and submit comments to the public sector partners.

(3) An advisory committee shall meet as necessary at times and places fixed by the department, but not less than twice per year. The state shall provide personnel services to assist the advisory committee within the limits of available funds. An advisory committee may adopt rules to govern its proceedings and may select officers.

(4) An advisory committee must be dissolved once the project has been fully constructed and debt issued to pay for the project has been fully retired.

Sec. 53. RCW 47.29.250 and 2005 c 317 s 25 are each amended to read as follows:

(1) In addition to any authority the commission or department has to issue and sell bonds and other similar obligations, this section establishes continuing authority for the issuance and sale of bonds and other similar obligations in a manner consistent with this section. To finance a project in whole or in part, the ((~~commission~~)) secretary of the department of transportation may request that the state treasurer issue revenue bonds on behalf of the public sector partner. The bonds must be secured by a pledge of, and a lien on, and be payable only from moneys in the transportation innovative partnership account established in RCW 47.29.230, and any other revenues specifically pledged to repayment of the bonds. Such a pledge by the public partner creates a lien that is valid and binding from the time the pledge is made. Revenue bonds issued under this section are not general obligations of the state or local government and are not secured by or payable from any funds or assets of the state other than the moneys and revenues specifically pledged to the repayment of such revenue bonds.

(2) Moneys received from the issuance of revenue bonds or other debt obligations, including any investment earnings thereon, may be spent:

(a) For the purpose of financing the costs of the project for which the bonds are issued;

(b) To pay the costs and other administrative expenses of the bonds;

(c) To pay the costs of credit enhancement or to fund any reserves determined to be necessary or advantageous in connection with the revenue bonds; and

(d) To reimburse the public sector partners for any costs related to carrying out the projects authorized under this chapter.

Sec. 54. RCW 47.10.861 and 2003 c 147 s 1 are each amended to read as follows:

In order to provide funds necessary for the location, design, right of way, and construction of selected projects or improvements that are identified as transportation 2003 projects or improvements in the omnibus transportation budget, there shall be issued and sold upon the request of the secretary of the department of transportation ((~~commission~~)) a total of two billion six hundred million dollars of general obligation bonds of the state of Washington.

Sec. 55. RCW 47.10.862 and 2003 c 147 s 2 are each amended to read as follows:

Upon the request of the secretary of the department of transportation ((~~commission~~)), as appropriate, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds in RCW 47.10.861 through 47.10.866 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.861 through 47.10.866 shall be sold in the manner, at time or times, in amounts, and at the price as the state finance committee shall determine. No bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

Sec. 56. RCW 47.10.843 and 1998 c 321 s 16 are each amended to read as follows:

In order to provide funds necessary for the location, design, right of way, and construction of state and local highway improvements, there shall be issued and sold upon the request of the ((~~Washington state~~)) secretary of the department of transportation ((~~commission~~)) a maximum of one billion nine hundred million dollars of general obligation bonds of the state of Washington.

Sec. 57. RCW 47.10.844 and 1998 c 321 s 17 are each amended to read as follows:

Upon the request of the secretary of the department of transportation ((~~commission~~)), the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.843 through 47.10.848 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.843 through 47.10.848 shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such

bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

Sec. 58. RCW 47.10.834 and 1995 2nd sp.s. c 15 s 2 are each amended to read as follows:

In order to provide funds necessary to implement the public-private transportation initiatives authorized by chapter 47.46 RCW, there shall be issued and sold upon the request of the ((~~Washington state~~)) secretary of the department of transportation ((~~commission~~)) a total of twenty-five million six hundred twenty-five thousand dollars of general obligation bonds of the state of Washington.

Sec. 59. RCW 47.10.835 and 1994 c 183 s 3 are each amended to read as follows:

Upon the request of the secretary of the department of transportation ((~~commission~~)), the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.834 through 47.10.841 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.834 through 47.10.841 shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. In making such appropriation of the net proceeds of the sale of the bonds, the legislature shall specify what portion of the appropriation is provided for possible loans and what portion of the appropriation is provided for other forms of cash contributions to projects.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

Sec. 60. RCW 47.10.819 and 1993 c 432 s 1 are each amended to read as follows:

In order to provide funds necessary for the location, design, right of way, and construction of selected interstate and other highway improvements, there shall be issued and sold upon the request of the ((~~Washington state~~)) secretary of the department of transportation ((~~commission~~)) a total of one hundred million dollars of general obligation bonds of the state of Washington for the following purposes and specified sums:

(1) Not to exceed twenty-five million dollars to pay the state's and local governments' share of matching funds for the ten demonstration projects identified in the Intermodal Surface Transportation Efficiency Act of 1991.

(2) Not to exceed fifty million dollars to temporarily pay the regular federal share of construction in advance of federal-aid apportionments as authorized by this section.

(3) Not to exceed twenty-five million dollars for loans to local governments to provide the required matching funds to take advantage of available federal funds. These loans shall be on such terms and conditions as determined by the ((~~Washington state~~)) secretary of the department of transportation ((~~commission~~)), but in no event may the loans be for a period of more than ten years. The interest rate on the loans authorized under this subsection shall be equal to the interest rate on the bonds sold for such purposes.

Sec. 61. RCW 47.10.820 and 1993 c 432 s 2 are each amended to read as follows:

Upon the request of the secretary of the department of transportation ((~~commission~~)), the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.10.819 through 47.10.824 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.819 through 47.10.824 shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

Sec. 62. RCW 47.02.120 and 1990 c 293 s 1 are each amended to read as follows:

For the purpose of providing funds for the acquisition of headquarters facilities for district 1 of the department of transportation and costs incidental thereto, together with all improvements and equipment required to make the facilities suitable for the department's use, there shall be issued and sold upon the request of the ((~~Washington transportation commission~~)) secretary of the department of transportation a total of fifteen million dollars of general obligation bonds of the state of Washington.

Sec. 63. RCW 47.02.140 and 1990 c 293 s 3 are each amended to read as follows:

Upon the request of the secretary of the department of transportation ((~~commission~~)), the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds authorized by RCW 47.02.120 through 47.02.190 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.02.120 through 47.02.190 shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. Except for the purpose of repaying the loan from the motor vehicle fund, no such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

Sec. 64. RCW 44.75.030 and 2005 c 319 s 17 are each amended to read as follows:

(1) The transportation performance audit board is created.

(2) The board will consist of four legislative members, three citizen members with transportation-related expertise, two citizen members with performance measurement expertise, ((~~one member of the transportation commission,~~)) the director of financial management or the director's designee, one ex officio nonvoting member, and one at large member. ((~~The legislative auditor is the ex officio nonvoting member.~~)) The majority and minority leaders of the house and senate transportation committees, or their designees, are the legislative members. The governor shall appoint the at large member to serve for a term of four years. The citizen members must be appointed by the governor for terms of four years, except that at least half the initial appointments will be for terms of two years. The citizen members may not be currently, or within one year, employed by the Washington state department of transportation. The governor, when appointing the citizen members with transportation-related expertise, may consult with appropriate professional associations and shall consider the following transportation-related experiences:

(a) Construction project planning, including permitting and assuring regulatory compliance;

(b) Construction means and methods and construction management, crafting and implementing environmental mitigation plans, and administration;

(c) Construction engineering services, including construction management, materials testing, materials

documentation, contractor payments, inspection, surveying, and project oversight;

(d) Project management, including design estimating, contract packaging, and procurement; and

(e) Transportation planning and congestion management.

(3) The governor may not remove members from the board before the expiration of their terms unless for cause based upon a determination of incapacity, incompetence, neglect of duty, of malfeasance in office by the Thurston county superior court, upon petition and show cause proceedings brought for that purpose in that court and directed to the board member in question.

(4) No member may be appointed for more than three consecutive terms.

Sec. 65. RCW 44.75.040 and 2005 c 319 s 18 are each amended to read as follows:

(1) The board shall meet periodically. It may adopt its own rules and may establish its own procedures. It shall act collectively in harmony with recorded resolutions or motions adopted by a majority vote of the members.

(2) Each member of the transportation performance audit board will be compensated ((~~from the general appropriation for the transportation commission in accordance with RCW 43.03.250 and~~)) in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government, and (b) receives any compensation from such government for working that day. A member shall be reimbursed for actual necessary traveling and other expenses in going to, attending, and returning from meetings of the board or that are incurred in the discharge of duties requested by the chair. However, in no event may a board member be compensated in any year for more than one hundred twenty days, except the chair may be compensated for not more than one hundred fifty days. Service on the board does not qualify as a service credit for the purposes of a public retirement system.

(3) The transportation performance audit board shall keep proper records and is subject to audit by the state auditor or other auditing entities.

(4) Staff support to the transportation performance audit board must be provided by the transportation commission, which shall provide professional support for the duties, functions, responsibilities, and activities of the board, including but not limited to information technology systems; data collection, processing, analysis, and reporting; project management; and office space, equipment, and secretarial support. Additionally, the commission shall designate, subject to board approval, a staff person to serve as the board administrator. The board administrator serves as an exempt employee and at the pleasure of the board.

(5) Each member of the transportation performance audit board shall disclose any actual or potential conflict of interest, if applicable under the circumstance, regarding all performance reviews and performance audits conducted under this chapter.

NEW SECTION. **Sec. 66.** A new section is added to chapter 44.75 RCW to read as follows:

(1) The office of financial management shall assume all powers and functions of the transportation performance audit board to review the performance and outcome measures of transportation-related agencies under RCW 44.75.050 through 44.75.090. Effective July 1, 2007: (a) Any appropriations made to the transportation performance audit board for carrying out the powers, functions, and duties transferred under this subsection shall be transferred and credited to the office of financial management; (b) all rules and all pending business before the transportation performance audit board pertaining to the powers, functions, and duties transferred under this subsection shall be continued and acted upon by the office of financial management; and (c) all existing contracts and obligations pertaining to the powers, functions, and duties transferred under this subsection shall remain in full force and shall be performed by the office of financial management.

(2) The state auditor shall assume all powers and functions of the transportation performance audit board to conduct performance audits of transportation-related agencies under RCW 44.75.080 through 44.75.800. Effective July 1, 2007: (a) Any appropriations made to the transportation performance audit board for carrying out the powers, functions, and duties transferred under this subsection shall be transferred and credited to the state auditor; (b) all rules and all pending business before the transportation performance audit board pertaining to the powers, functions, and duties transferred under this subsection shall be continued and acted upon by the state auditor; and (c) all existing contracts and obligations pertaining to the powers, functions, and duties transferred under this subsection shall remain in full force and shall be performed by the state auditor.

(3) By June 30, 2007, the transportation performance audit board shall: (a) Assist the office of financial management as needed to transfer all performance measure review functions under RCW 44.75.050 through 44.75.090 to the office of financial management; and (b) assist the state auditor as needed to transfer all performance audit functions under RCW 44.75.080 through 44.75.800 to the state auditor.

NEW SECTION. **Sec. 67.** A new section is added to chapter 43.88 RCW to read as follows:

The office of financial management shall, after reviewing the performance or outcome measures and benchmarks of a transportation agency or department under chapter 44.75 RCW, create a report on the results of such review, including a recommendation of whether a full performance or functional audit of the agency or department is warranted, and submit the report annually to the state auditor and to the standing committees on transportation of the house of representatives and senate.

NEW SECTION. **Sec. 68.** A new section is added to chapter 43.09 RCW to read as follows:

After reviewing the report of the office of financial management on the performance or outcome measures and benchmarks of a transportation-related agency or department, the state auditor may conduct a full performance or functional audit of the agency or department reviewed, or a specific program within the agency or department.

Sec. 69. RCW 47.10.873 and 2005 c 315 s 1 are each amended to read as follows:

In order to provide funds necessary for the location, design, right of way, and construction of selected projects or improvements that are identified as 2005 transportation partnership projects or improvements in the omnibus transportation budget ((~~[2005 c 313]~~)) (2005 c 313), there shall be issued and sold upon the request of the secretary of the department of transportation a total of five billion one hundred million dollars of general obligation bonds of the state of Washington.

Sec. 70. RCW 47.10.874 and 2005 c 315 s 2 are each amended to read as follows:

Upon the request of the secretary of the department of transportation, as appropriate, the state finance committee shall supervise and provide for the issuance, sale, and retirement of the bonds in RCW 47.10.873 through 47.10.878 in accordance with chapter 39.42 RCW. Bonds authorized by RCW 47.10.873 through 47.10.878 shall be sold in the manner, at time or times, in amounts, and at the price as the state finance committee shall determine. No bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued.

NEW SECTION. **Sec. 71.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed effective June 30, 2007:
(1) RCW 44.75.030 (Board created--Membership) and 2006 c ... s 64 (section 64 of this act), 2005 c 319 s 17, & 2003 c 362 s 3; and
(2) RCW 44.75.040 (Procedures, compensation, support) and 2006 c ... s 65 (section 65 of this act), 2005 c 319 s 18, & 2003 c 362 s 4.

NEW SECTION. **Sec. 72.** This act takes effect July 1, 2006."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Benson moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6800 and ask the House to recede therefrom.

Senator Benson spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Benson that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6800 and ask the House to recede therefrom.

The motion by Senator Benson carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6800 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

March 6, 2006

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1010 and asks the Senate for a conference thereon. Speaker has appointed the following members as Conferees:

Representatives Morris, Hudgins, Crouse
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Poulsen moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1010.

The President declared the question before the Senate to be motion by Senator Poulsen that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 1010.

The motion by Senator Poulsen carried and the Senate receded from its amendments on Engrossed Substitute House Bill No. 1010.

MOTION

On motion of Senator Schoesler, Senator Benson was excused.

MOTION

On motion of Senator Poulsen, the rules were suspended and Engrossed Substitute House Bill No. 1010 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1010, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins, Morrell, Linville, B. Sullivan, McCoy and Chase)

Concerning energy efficiency and renewable energy standards.

The measure was read the second time.

MOTION

Senator Poulsen moved that the following striking amendment by Senators Poulsen and Morton be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** It is the intent of the legislature to encourage the development of new safe, clean, and reliable energy resources to meet demand in Washington for affordable and reliable electricity. To achieve this end, the legislature finds it essential that electric utilities in Washington develop comprehensive resource plans that explain the mix of generation and demand-side resources they plan to use to meet their customers' electricity needs in both the short term and the long term. The legislature intends that information obtained from integrated resource planning under this chapter will be used to assist in identifying and developing new energy generation, conservation and efficiency resources, and related infrastructure to meet the state's electricity needs.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the utilities and transportation commission.

(2) "Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

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

(5) "Electric utility" means a consumer-owned or investor-owned utility.

(6) "Full requirements customer" means an electric utility that relies on the Bonneville power administration for all power needed to supply its total load requirement other than that served by nondispatchable generating resources totaling no more than six megawatts or renewable resources.

(7) "Governing body" means the elected board of directors, city council, commissioners, or board of any consumer-owned utility.

(8) "High efficiency cogeneration" means the sequential production of electricity and useful thermal energy from a common fuel source, where, under normal operating conditions,

the facility has a useful thermal energy output of no less than thirty-three percent of the total energy output.

(9) "Integrated resource plan" means an analysis describing the mix of generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers and that complies with the requirements specified in section 3(1) of this act.

(10) "Investor-owned utility" means a corporation owned by investors that meets the definition in RCW 80.04.010 and is engaged in distributing electricity to more than one retail electric customer in the state.

(11) "Lowest reasonable cost" means the lowest cost mix of generating resources and conservation and efficiency resources determined through a detailed and consistent analysis of a wide range of commercially available resources. At a minimum, this analysis must consider resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, the risks imposed on the utility and its ratepayers, public policies regarding resource preference adopted by Washington state or the federal government, and the cost of risks associated with environmental effects including emissions of carbon dioxide.

(12) "Plan" means either an "integrated resource plan" or a "resource plan."

(13) "Renewable resources" means electricity generation facilities fueled by: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) biomass energy utilizing animal waste, solid organic fuels from wood, forest, or field residues or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (g) byproducts of pulping or wood manufacturing processes, including but not limited to bark, wood chips, sawdust, and lignin in spent pulping liquors; (h) ocean thermal, wave, or tidal power; or (i) gas from sewage treatment facilities.

(14) "Resource plan" means an assessment that estimates electricity loads and resources over a defined period of time and complies with the requirements in section 3(2) of this act.

NEW SECTION. **Sec. 3.** Each electric utility must develop a plan consistent with this section.

(1) Utilities with more than twenty-five thousand customers that are not full requirements customers shall develop or update an integrated resource plan by September 1, 2008. At a minimum, progress reports reflecting changing conditions and the progress of the integrated resource plan must be produced every two years thereafter. An updated integrated resource plan must be developed at least every four years subsequent to the 2008 integrated resource plan. The integrated resource plan, at a minimum, must include:

(a) A range of forecasts, for at least the next ten years, of projected customer demand which takes into account econometric data and customer usage;

(b) An assessment of commercially available conservation and efficiency resources. Such assessment may include, as appropriate, high efficiency cogeneration, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies;

(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;

(e) The integration of the demand forecasts and resource evaluations into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost and risk to the utility and its ratepayers; and

(f) A short-term plan identifying the specific actions to be taken by the utility consistent with the long-range integrated resource plan.

(2) All other utilities may elect to develop a full integrated resource plan as set forth in subsection (1) of this section or, at a minimum, shall develop a resource plan that:

(a) Estimates loads for the next five and ten years;

(b) Enumerates the resources that will be maintained and/or acquired to serve those loads; and

(c) Explains why the resources in (b) of this subsection were chosen and, if the resources chosen are not renewable resources or conservation and efficiency resources, why such a decision was made.

(3) An electric utility that is required to develop a resource plan under this section must complete its initial plan by September 1, 2008.

(4) Resource plans developed under this section must be updated on a regular basis, at a minimum on intervals of two years.

(5) Plans shall not be a basis to bring legal action against electric utilities.

(6) Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form.

NEW SECTION. **Sec. 4.** (1) Investor-owned utilities shall submit integrated resource plans to the commission. The commission shall establish by rule the requirements for preparation and submission of integrated resource plans.

(2) The commission may adopt additional rules as necessary to clarify the requirements of section 3 of this act as they apply to investor-owned utilities.

NEW SECTION. **Sec. 5.** (1) The governing body of a consumer-owned utility that develops a plan under this chapter shall encourage participation of its consumers in development of the plans and progress reports and approve the plans and progress reports after it has provided public notice and hearing.

(2) Each consumer-owned utility shall transmit a copy of its plan to the department by September 1, 2008, and transmit subsequent progress reports or plans to the department at least every two years thereafter. The department shall develop, in consultation with utilities, a common cover sheet that summarizes the essential data in their plans or progress reports.

(3) Consumer-owned utilities may develop plans of a similar type jointly with other consumer-owned utilities. Data and assessments included in joint reports must be identifiable to each individual utility.

(4) To minimize duplication of effort and maximize efficient use of utility resources, in developing their plans under section 3 of this act, consumer-owned utilities are encouraged to use resource planning concepts, techniques, and information provided to and by organizations such as the United States department of energy, the Northwest planning and conservation council, Pacific Northwest utility conference committee, and other state, regional, national, and international entities, and, for the 2008 plan, as appropriate, are encouraged to use and be consistent with relevant determinations required under Title XII - Electricity; Subtitle E, Sections 1251 - 1254 of the federal energy policy act of 2005.

NEW SECTION. **Sec. 6.** The department shall review the plans of consumer-owned utilities and investor-owned utilities, and data available from other state, regional, and national sources, and prepare an electronic report to the legislature aggregating the data and assessing the overall adequacy of Washington's electricity supply. The report shall include a statewide summary of utility load forecasts, load/resource balance, and utility plans for the development of thermal generation, renewable resources, and conservation and efficiency resources. The commission shall provide the department with data summarizing the plans of investor-owned utilities for use in the department's statewide summary. The

department may submit its report within the biennial report required under RCW 43.21F.045.

NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute a new chapter in Title 19 RCW."

Senators Poulsen and Morton spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Poulsen and Morton to Engrossed Substitute House Bill No. 1010.

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

MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "electric utility planning; and adding a new chapter to Title 19 RCW."

MOTION

On motion of Senator Poulsen, the rules were suspended, Engrossed Substitute House Bill No. 1010 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1010 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1010 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Excused: Senators Benson, McCaslin and Oke - 3

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1010 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2006

MR. PRESIDENT:
The House has passed the following bill{s}:

ENGROSSED HOUSE BILL NO. 2716,

and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

March 6, 2006

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2507 and asks Senate to recede therefrom.

and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Schoesler moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 2507.

The President declared the question before the Senate to be motion by Senator Schoesler that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 2507.

The motion by Senator Schoesler carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 2507.

MOTION

On motion of Senator Schoesler, the rules were suspended and Engrossed Substitute House Bill No. 2507 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2507, by House Committee on Higher Education & Workforce Education (originally sponsored by Representatives Kenney, Shabro, Hasegawa, Morrell, Rodne, Lantz and Ormsby)

Prohibiting false or misleading college degrees.

The measure was read the second time.

MOTION

Senator Schoesler moved that the following striking amendment by Senators Schoesler and McAuliffe be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.85 RCW to read as follows:

(1) It is unlawful for a person to:

(a) Grant or award a false academic credential or offer to grant or award a false academic credential in violation of this section;

(b) Represent that a credit earned or granted by the person, in violation of this section, can be applied toward a credential offered by another person; or

(c) Solicit another person to seek a credential or to earn a credit that is offered in violation of this section.

(2) The definitions in section 2 of this act apply to this section.

(3) A violation of this section constitutes an unfair or deceptive act or practice in the conduct of trade or commerce under chapter 19.86 RCW.

(4) In addition to any other venue authorized by law, venue for the prosecution of an offense under this section is in the county in which an element of the offense occurs.

NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.60 RCW to read as follows:

(1) A person is guilty of issuing a false academic credential if the person knowingly:

(a) Grants or awards a false academic credential or offers to grant or award a false academic credential in violation of this section;

(b) Represents that a credit earned or granted by the person in violation of this section can be applied toward a credential offered by another person;

(c) Grants or offers to grant a credit for which a representation as described in (b) of this subsection is made; or

(d) Solicits another person to seek a credential or to earn a credit the person knows is offered in violation of this section.

(2) A person is guilty of knowingly using a false academic credential if the person knowingly uses a false academic credential or falsely claims to have a credential issued by an institution of higher education that is accredited by an accrediting association recognized as such by rule of the higher education coordinating board:

(a) In a written or oral advertisement or other promotion of a business; or

(b) With the intent to:

(i) Obtain employment;

(ii) Obtain a license or certificate to practice a trade, profession, or occupation;

(iii) Obtain a promotion, compensation or other benefit, or an increase in compensation or other benefit, in employment or in the practice of a trade, profession, or occupation;

(iv) Obtain admission to an educational program in this state; or

(v) Gain a position in government with authority over another person, regardless of whether the person receives compensation for the position.

(3) The definitions in this subsection apply throughout this section and section 1 of this act.

(a) "False academic credential" means a document that provides evidence or demonstrates completion of an academic or professional course of instruction beyond the secondary level that results in the attainment of an academic certificate, degree, or rank, and that is not issued by a person or entity that: (i) Is an entity accredited by an agency recognized as such by rule of the higher education coordinating board or has the international equivalents of such accreditation; or (ii) is an entity authorized as a degree-granting institution by the higher education coordinating board; or (iii) is an entity exempt from the requirements of authorization as a degree-granting institution by the higher education coordinating board; or (iv) is an entity that has been granted a waiver by the higher education coordinating board from the requirements of authorization by the board. Such documents include, but are not limited to, academic certificates, degrees, coursework, degree credits, transcripts, or certification of completion of a degree.

(b) "Grant" means award, bestow, confer, convey, sell, or give.

(c) "Offer," in addition to its usual meanings, means advertise, publicize, or solicit.

(d) "Operate" includes but is not limited to the following:

(i) Offering courses in person, by correspondence, or by electronic media at or to any Washington location for degree credit;

(ii) Granting or offering to grant degrees in Washington;

(iii) Maintaining or advertising a Washington location, mailing address, computer server, or telephone number, for any purpose, other than for contact with the institution's former students for any legitimate purpose related to the students having attended the institution.

(4) Issuing a false academic credential is a class C felony.

(5) Knowingly using a false academic credential is a gross misdemeanor.

Sec. 3. RCW 28B.85.020 and 2005 c 274 s 246 are each amended to read as follows:

(1) The board:

(a) Shall adopt by rule, in accordance with chapter 34.05 RCW, minimum standards for degree-granting institutions concerning granting of degrees, quality of education, unfair business practices, financial stability, and other necessary measures to protect citizens of this state against substandard, fraudulent, or deceptive practices. The rules ((~~may~~)) shall require that an institution operating in Washington:

(i) Be accredited ((~~or be making progress toward accreditation by an accrediting agency recognized by the United States department of education. The board shall adopt the rules in accordance with chapter 34.05 RCW~~));

(ii) Have applied for accreditation and such application is pending before the accrediting agency;

(iii) Have been granted a waiver by the board waiving the requirement of accreditation; or

(iv) Have been granted an exemption by the board from the requirements of this subsection (1)(a);

(b) May investigate any entity the board reasonably believes to be subject to the jurisdiction of this chapter. In connection with the investigation, the board may administer oaths and affirmations, issue subpoenas and compel attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the board deems relevant or material to the investigation. The board, including its staff and any other authorized persons, may conduct site inspections, the cost of which shall be borne by the institution, and examine records of all institutions subject to this chapter;

(c) Shall develop an interagency agreement with the work force training and education coordinating board to regulate degree-granting private vocational schools with respect to degree and nondegree programs; and

(d) Shall develop and disseminate information to the public about entities that sell or award degrees without requiring appropriate academic achievement at the postsecondary level, including but not limited to, a description of the substandard and potentially fraudulent practices of these entities, and advice about how the public can recognize and avoid the entities. To the extent feasible, the information shall include links to additional resources that may assist the public in identifying specific institutions offering substandard or fraudulent degree programs.

(2) Financial disclosures provided to the board by degree-granting private vocational schools are not subject to public disclosure under chapter 42.56 RCW.

Sec. 4. RCW 28B.85.040 and 2004 c 96 s 2 are each amended to read as follows:

(1) An institution or person shall not advertise, offer, sell, or award a degree or any other type of educational credential unless the student has enrolled in and successfully completed a prescribed program of study, as outlined in the institution's publications. This prohibition shall not apply to honorary credentials clearly designated as such on the front side of the diploma or certificate and awarded by institutions offering other educational credentials in compliance with state law.

(2) No exemption or waiver granted under this chapter is permanent. The board shall periodically review exempted degree-granting institutions and degree-granting institutions granted a waiver, and continue exemptions or waivers only if an institution meets the statutory or board requirements for exemption or waiver in effect on the date of the review.

(3) Except as provided in subsection (1) of this section, this chapter shall not apply to:

(a) Any public college, university, community college, technical college, or institute operating as part of the public higher educational system of this state;

(b) Institutions that have been accredited by an accrediting association recognized by the agency for the purposes of this chapter: PROVIDED, That those institutions meet minimum exemption standards adopted by the agency; and PROVIDED FURTHER, That an institution, branch, extension, or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately

accredited member institution of any such accrediting association to qualify for this exemption;

(c) Institutions of a religious character, but only as to those education programs devoted exclusively to religious or theological objectives if the programs are represented in an accurate manner in institutional catalogs and other official publications;

(d) Honorary credentials clearly designated as such on the front side of the diploma or certificate awarded by institutions offering other educational credentials in compliance with state law; or

(e) Institutions not otherwise exempt which offer only workshops or seminars and institutions offering only credit-bearing workshops or seminars lasting no longer than three calendar days.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.405 RCW to read as follows:

A person who issues or uses a false academic credential is subject to sections 1 and 2 of this act.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28B.50 RCW to read as follows:

A person who issues or uses a false academic credential is subject to sections 1 and 2 of this act.

NEW SECTION. **Sec. 7.** A new section is added to chapter 41.06 RCW to read as follows:

A person who issues or uses a false academic credential is subject to sections 1 and 2 of this act."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Schoesler and McAuliffe to Engrossed Substitute House Bill No. 2507.

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

MOTION

On motion of Senator Schoesler, withdrew the amendment on page 3, line 17 by Senators Schoesler, Schmidt and McAuliffe to Engrossed Substitute House Bill No. 2507 was withdrawn.

MOTION

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

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28B.85.020 and 28B.85.040; adding a new section to chapter 28B.85 RCW; adding a new section to chapter 9A.60 RCW; adding a new section to chapter 28A.405 RCW; adding a new section to chapter 28B.50 RCW; adding a new section to chapter 41.06 RCW; and prescribing penalties."

MOTION

On motion of Senator Schoesler, the rules were suspended, Engrossed Substitute House Bill No. 2507 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Schoesler spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2507 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2507 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Excused: Senators Benson, McCaslin and Oke - 3

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2507 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 7, 2006

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2871 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Haugen moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 2871.

The President declared the question before the Senate to be motion by Senator Haugen that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 2871.

The motion by Senator Haugen carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 2871.

MOTION

On motion of Senator Haugen, the rules were suspended and Engrossed Substitute House Bill No. 2871 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2871, by House Committee on Transportation (originally sponsored by Representatives Murray, Dickerson, Appleton and Simpson)

Creating a regional transportation commission. Revised for 1st Substitute: Creating a regional transportation commission. (REVISED FOR ENGROSSED: Modifying regional transportation governance provisions.)

The measure was read the second time.

MOTION

Senator Haugen moved that the following striking amendment by Senator Haugen be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that effective transportation planning in urbanized regions requires stronger and clearer lines of responsibility and accountability.

The legislature further finds that integrated, multimodal transportation planning will help reduce transportation congestion and improve safety, and that streamlined decision making will help reduce political congestion.

The legislature further finds that coordinated planning of, investment in, and operation of transportation systems will have significant benefit to the citizens of Washington, and that it is the will of the people to fund regional transportation solutions, including improving transit service in urbanized areas and among existing, fragmented transit agencies in the region. Although equity considerations must be respected, transportation problems are broader and deeper than the sum of geographic subareas.

It is therefore the policy of the state of Washington to create a regional transportation commission to develop a proposal for a regional transportation governing entity more directly accountable to the public, and to develop a comprehensive regional transportation finance plan for the citizens of the Puget Sound metropolitan region.

NEW SECTION. **Sec. 2.** (1) The regional transportation commission is established.

(2) The commission shall consist of nine voting commissioners. The commissioners shall be appointed by the governor by June 1, 2006. The governor shall appoint four commissioners from designated lists of three nominees submitted by each major party caucus of the legislature, with one commissioner to be appointed from each respective list of nominees. The governor shall appoint the additional five commissioners independent of the legislative caucus nominees. In addition, the secretary of transportation or the secretary's designee shall serve as a nonvoting member. Appointments of commissioners must reflect geographical balance and diversity of populations within the central Puget Sound region and, to the extent possible, include commissioners with special expertise in relevant fields such as funding, planning, and construction of transportation improvement projects, structural reorganizations, and operation of transportation systems. Appointees must be citizen members who do not hold public office. Vacancies for any appointed commission seat shall be filled in the same manner as the original appointments were made.

(3) The term of office for a commissioner begins seven days following appointment by the governor. A commissioner must be a qualified elector under the state Constitution when his or her term of office begins.

(4) The commission chair presides over the commission and sets the commission agenda subject to general rules established by the commission. Except as provided otherwise in this act, the commission chair appoints all members of the committees, councils, and boards created by the rules of the commission. The commission chair shall be designated by the governor from among the commissioners appointed under subsection (2) of this section.

(5) Each member of the commission is eligible to receive compensation in an amount not to exceed two hundred fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chair. A commissioner may be compensated under this subsection only if the compensation is necessarily incurred in the course of authorized business, consistent with the responsibilities of the commission established by this act.

(6) The commission may be entitled to state funding, as appropriated by the legislature, to pay for expenses incurred by the commission and the department of transportation and through contracts in carrying out the duties authorized in this act.

(7) The department of transportation shall provide staff support to the commission and, upon request of the commission, contract with other parties for staff support to the commission.

NEW SECTION. **Sec. 3.** The regional transportation commission has the following duties:

(1) Evaluate transportation governance in the central Puget Sound area within the jurisdiction of the Puget Sound regional council. This evaluation must include an assessment of the current roles of regional transportation agencies, including regional transportation and metropolitan planning organizations, the regional transit authority, regional transportation investment districts, county and municipal agencies operating transit services, and cities, counties, and other public agencies providing transportation services or facilities, including the state department of transportation. The commission shall assess and develop recommendations for what steps should be taken to:

(a) Consolidate governance among agencies, including changes in institutional powers, structures, and relationships and governance needed to improve accountability for transportation decisions, while enhancing the regional focus for transportation decisions and maintaining equity among citizens in the region;

(b) Improve coordination in the planning of transportation investments and services;

(c) Improve investment strategies;

(d) Coordinate transportation planning and investments with adopted land use policies within the region;

(e) Enhance efficiency and coordination in the delivery of services provided;

(f) Adjust boundaries for agencies or functions within the region to address existing and future transportation and land use issues; and

(g) Improve coordination between regional investments and federal funds, and state funding, including those administered by the transportation improvement board, the county road administration board, and the freight mobility strategic investment board;

(2) Develop options for a regional transportation governance proposal that include, at a minimum, an option providing for the formation of a regional transportation governing entity, of which all of its members must be directly elected, the revenue sources that will be available to such entity, and the scope of planning authority of such entity. The commission shall consult with affected jurisdictions when developing a proposal under this subsection;

(3) Develop a comprehensive financing strategy and recommended revenue options for improving transportation system performance within the region through investments in transportation projects, including, but not limited to, system-wide pricing policies and network value-pricing charges;

(4) Publicize the commission's proposal referenced in subsection (2) of this section, and the list of revenue options referenced in subsection (3) of this section, by November 15, 2006, and provide at least fifteen days for public comment;

(5) Adopt the proposal referenced in subsection (2) of this section, and the list of revenue options referenced in subsection (3) of this section, and submit them to the legislature by January 1, 2007, after which time the commission shall dissolve; and

(6) Conduct public meetings to assure active public participation in the development of the recommendations, proposal, and finance plan under this section.

Sec. 4. RCW 36.120.020 and 2002 c 56 s 102 are each amended to read as follows:

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

(1) "Board" means the governing body of a regional transportation investment district.

(2) "Department" means the Washington state department of transportation.

(3) "Highway of statewide significance" means an existing or proposed state route or federal interstate designated as a highway of statewide significance by the transportation commission, its successor entity, or the legislature.

(4) "Lead agency" means a public agency that by law can plan, design, and build a transportation project and has been so designated by the district.

(5) "Regional transportation investment district" or "district" means a municipal corporation ((~~whose boundaries are coextensive with two or more contiguous counties and~~)) that has been created by county legislative authorities and a vote of the people under this chapter to implement a regional transportation investment plan.

(6) "Regional transportation investment district planning committee" or "planning committee" means the advisory committee created under RCW 36.120.030 to create and propose to county legislative authorities a regional transportation investment plan to develop, finance, and construct transportation projects.

(7) "Regional transportation investment plan" or "plan" means a plan to develop, construct, and finance a transportation project or projects.

(8) "Transportation project" means:

(a) A capital improvement or improvements to a highway that has been designated, in whole or in part, as a highway of statewide significance, including an extension, that:

(i) Adds a lane or new lanes to an existing state or federal highway; or

(ii) Repairs or replaces a lane or lanes damaged by an event declared an emergency by the governor before January 1, 2002.

(b) A capital improvement or improvements to all or a portion of a highway of statewide significance, including an extension, and may include the following associated multimodal capital improvements:

(i) Approaches to highways of statewide significance;

(ii) High-occupancy vehicle lanes;

(iii) Flyover ramps;

(iv) Park and ride lots;

(v) Bus pullouts;

(vi) Vans for vanpools;

(vii) Buses; and

(viii) Signalization, ramp metering, and other transportation system management improvements.

(c) A capital improvement or improvements to all or a portion of a city street, county road, or existing highway or the creation of a new highway that intersects with a highway of statewide significance, if all of the following conditions are met:

(i) The project is included in a plan that makes highway improvement projects that add capacity to a highway or highways of statewide significance;

(ii) The secretary of transportation determines that the project would better relieve traffic congestion than investing that same money in adding capacity to a highway of statewide significance;

(iii) Matching money equal to ((~~one-third~~)) fifteen percent of the total cost of the project is provided by local entities, including but not limited to a metropolitan planning organization, county, city, port, or private entity in which a county participating in a plan is located. Local entities may use federal grants to meet this matching requirement;

(iv) In no case may the cumulative regional transportation investment district contribution to all projects constructed under this subsection (8)(c) exceed ten percent of the revenues generated by the district;

(v) In no case may the cumulative regional transportation investment district contribution to all projects constructed under this subsection (8)(c) exceed one billion dollars; and

(vi) The specific projects are included within the plan and submitted as part of the plan to a vote of the people.

(d) Except as otherwise provided in this subsection, operations, preservation, and maintenance are excluded from this definition and may not be included in a regional transportation investment plan. However, operations, preservation, and maintenance of tolled facilities where toll revenues have been pledged for the payment of contracts is expressly authorized and may be included in a regional transportation investment plan. The authority under this subsection includes operational expenses for toll enforcement.

(e) Operational expenses for traffic mitigation provided solely for transportation project construction mitigation directly related to specific projects as outlined in the plan shall be included in a regional transportation investment plan. Construction mitigation strategies may include, but are not limited to, funding for increased transit service hours, trip reduction incentives, nonmotorized mode support, and ridematching services. Prior to construction of any project, corridor mitigation plans must be developed in conjunction with the department and partner transit agencies, including local transit agencies and the regional transit authority serving the counties, with the following goals: (i) Reducing drive alone trips in affected corridors; (ii) reducing delay per person and delay per unit of goods in affected corridors; and (iii) improving levels of service that improve system performance for all transportation users in affected corridors. The regional transportation commission established under section 2 of this act, or a successor regional governing entity, shall review transit investments according to these performance measures to determine whether to continue funding for successful and effective operations after the construction period is completed.

(9) "Weighted vote" means a vote that reflects the population each board or planning committee member represents relative to the population represented by the total membership of the board or planning committee. Population will be determined using the federal 2000 census or subsequent federal census data.

Sec. 5. RCW 36.120.030 and 2002 c 56 s 103 are each amended to read as follows:

Regional transportation investment district planning committees are advisory entities that are created, convened, and empowered as follows:

(1) A county with a population over one million five hundred thousand persons and any adjoining counties with a population over five hundred thousand persons may create a regional transportation investment district and shall convene a regional transportation investment district planning committee.

(a) The boundaries of the district should include at least the contiguous areas within the regional transit authority serving the counties. The boundaries must be proposed by the planning committee and approved by the county legislative authorities by ordinance before or in conjunction with approval of a regional transportation investment plan. Boundaries must follow complete parcels of land. However, any portion of a county that is located on a peninsula shall be exempt from a regional transportation investment district in which more than one county is included if (i) the portion of the county located on the peninsula is connected to the other portion of the county by a bridge improved under chapter 47.46 RCW, and (ii) the county has a national park and a population of more than five hundred thousand persons, but less than one million five hundred thousand persons.

(b) After voters within the district boundaries have approved a plan under RCW 36.120.070, elections to add areas to the district boundaries may be called by a resolution of the board, after consultation with the regional transportation planning organization and affected transit agencies and with the concurrence of the legislative authority of the city or town if the area is incorporated or with the concurrence of the county legislative authority if the area is unincorporated. The election may include a single ballot measure providing annexation to the district, approval of the plan, and approval of revenue sources necessary to finance the plan. The electorate are the voters voting within the proposed area to be annexed. A simple

majority of the persons voting on the single ballot measure is required for approval of the measure.

(2) The members of the legislative authorities participating in planning under this chapter shall serve as the district planning committee. Members of the planning committee receive no compensation, but may be reimbursed for travel and incidental expenses as the planning committee deems appropriate.

The secretary of transportation, or the appropriate regional administrator of the department, as named by the secretary, shall serve on the committee as a nonvoting member.

(3) A regional transportation investment district planning committee may be entitled to state funding, as appropriated by the legislature, for start-up funding to pay for salaries, expenses, overhead, supplies, and similar expenses ordinarily and necessarily incurred in selecting transportation projects and funding for those transportation projects under this chapter. Upon creation of a regional transportation investment district, the district shall within one year reimburse the state for any sums advanced for these start-up costs from the state.

(4) The planning committee shall conduct its affairs and formulate a regional transportation investment plan as provided under RCW 36.120.040, except that it shall elect an executive board of seven members to discharge the duties of the planning committee and formulate a regional transportation investment plan, subject to the approval of the full committee.

(5) At its first meeting, a regional transportation investment district planning committee may elect officers and provide for the adoption of rules and other operating procedures.

(6) Governance of and decisions by a regional transportation investment district planning committee must be by a sixty-percent weighted majority vote of the total membership.

(7) The planning committee may dissolve itself at any time by a two-thirds weighted majority vote of the total membership of the planning committee.

(8) If a multicounty regional transportation investment district is not formed by December 1, 2007, through approval by the voters voting on a regional transportation investment plan, then the authority under this chapter to create a district, and to fund and construct transportation projects, shall be available to each of the eligible counties described in subsection (1) of this section on an individual and independent basis.

Sec. 6. RCW 36.120.040 and 2003 c 194 s 1 are each amended to read as follows:

(1) A regional transportation investment district planning committee shall adopt a regional transportation investment plan providing for the development, construction, and financing of transportation projects. The planning committee may consider the following factors in formulating its plan:

(a) Land use planning criteria;

(b) The input of cities located within a participating county; and

(c) The input of regional transportation planning organizations ((~~in~~)) of which a participating county is ((~~located~~)) a member. A regional transportation planning organization in which a participating county is located shall review its adopted regional transportation plan and submit, for the planning committee's consideration, its list of transportation improvement priorities.

(2) The planning committee may coordinate its activities with the department, which shall provide services, data, and personnel to assist in this planning as desired by the planning committee. In addition, the planning committee may coordinate its activities with affected cities, towns, and other local governments, including any regional transit authority existing within the participating counties' boundaries, that engage in transportation planning.

(3) The planning committee shall:

(a) Conduct public meetings that are needed to assure active public participation in the development of the plan;

(b) Adopt a plan proposing the:

(i) Creation of a regional transportation investment district, including district boundaries; and

(ii) Construction of transportation projects to improve mobility within each county and within the region. Operations, maintenance, and preservation of facilities or systems may not be part of the plan, except for the limited purposes provided under RCW 36.120.020(8); and

(c) Recommend sources of revenue authorized by RCW 36.120.050 and a financing plan to fund selected transportation projects. The overall plan of the district must leverage the district's financial contributions so that the federal, state, local, and other revenue sources continue to fund major congestion relief and transportation capacity improvement projects in each county and the district. A combination of local, state, and federal revenues may be necessary to pay for transportation projects, and the planning committee shall consider all of these revenue sources in developing a plan.

(4) The plan must use tax revenues and related debt for projects that generally benefit a participating county in proportion to the general level of tax revenues generated within that participating county. This equity principle applies to all modifications to the plan, appropriation of contingency funds not identified within the project estimate, and future phases of the plan. Per agreement with a regional transit authority serving the counties participating in a district, the equity principle identified under this subsection may include using the combined district and regional transit authority revenues generated within a participating county to determine the distribution that proportionally benefits the county. For purposes of the transportation subarea equity principle established under this subsection, a district may use the five subareas within a regional transit authority's boundaries as identified in an authority's system plan adopted in May 1996. During implementation of the plan, the board shall retain the flexibility to manage distribution of revenues, debt, and project schedules so that the district may effectively implement the plan. Nothing in this section should be interpreted to prevent the district from pledging district- wide tax revenues for payment of any contract or debt entered into under RCW 36.120.130.

(5) Before adopting the plan, the planning committee, with assistance from the department, shall work with the lead agency to develop accurate cost forecasts for transportation projects. This project costing methodology must be integrated with revenue forecasts in developing the plan and must at a minimum include estimated project costs in constant dollars as well as year of expenditure dollars, the range of project costs reflected by the level of project design, project contingencies, identification of mitigation costs, the range of revenue forecasts, and project and plan cash flow and bond analysis. The plan submitted to the voters must provide cost estimates for each project, including reasonable contingency costs. Plans submitted to the voters must provide that the maximum amount possible of the funds raised will be used to fund projects in the plan, including environmental improvements and mitigation, and that administrative costs be minimized. If actual revenue exceeds actual plan costs, the excess revenues must be used to retire any outstanding debt associated with the plan.

(6) If a county opts not to adopt the plan or participate in the regional transportation investment district, but two or more contiguous counties do choose to continue to participate, then the planning committee may, within ninety days, redefine the regional transportation investment plan and the ballot measure to be submitted to the people to reflect elimination of the county, and submit the redefined plan to the legislative authorities of the remaining counties for their decision as to whether to continue to adopt the redefined plan and participate. This action must be completed within sixty days after receipt of the redefined plan.

(7) Once adopted by the planning committee, the plan must be forwarded to the participating county legislative authorities to initiate the election process under RCW 36.120.070. The

planning committee shall at the same time provide notice to each city and town within the district, the governor, the chairs of the transportation committees of the legislature, the secretary of transportation, and each legislator whose legislative district is partially or wholly within the boundaries of the district.

(8) If the ballot measure is not approved, the planning committee may redefine the selected transportation projects, financing plan, and the ballot measure. The county legislative authorities may approve the new plan and ballot measure, and may then submit the revised proposition to the voters at the next election or a special election. If no ballot measure is approved by the voters by the third vote, the planning committee is dissolved.

NEW SECTION. **Sec. 7.** A new section is added to chapter 36.120 RCW to read as follows:

The planning committee must develop and include in the regional transportation investment plan a funding proposal for the state route number 520 bridge replacement and HOV project that assures full project funding for seismic safety and corridor connectivity on state route number 520 between Interstate 5 and Interstate 405.

Sec. 8. RCW 36.120.070 and 2002 c 56 s 107 are each amended to read as follows:

(1) Beginning no sooner than the 2007 general election, two or more contiguous county legislative authorities, or a single county legislative authority as provided under RCW 36.120.030(8), upon receipt of the regional transportation investment plan under RCW 36.120.040, may ((~~certify the plan to the ballot, including identification of the tax options~~)) submit to the voters of the proposed district a single ballot measure that approves formation of the district, approves the regional transportation investment plan, and approves the revenue sources necessary to ((~~fund~~)) finance the plan. ((~~County legislative authorities~~)) For a county to participate in the plan, the county legislative authority shall, within ninety days after receiving the plan, adopt an ordinance indicating the county's participation. The planning committee may draft ((~~a ballot title,~~)) the ballot measure on behalf of the county legislative authorities, and the county legislative authorities may give notice as required by law for ballot measures, and perform other duties as required to ((~~put the plan before~~)) submit the measure to the voters of the proposed district for their approval or rejection ((~~as a single ballot measure that both approves formation of the district and approves the plan~~)). Counties may negotiate interlocal agreements necessary to implement the plan. The electorate will be the voters voting within the boundaries of the ((~~participating counties~~)) proposed district. A simple majority of the total persons voting on the single ballot measure ((~~to approve the plan, establish the district, and approve the taxes and fees~~)) is required for approval.

(2) In conjunction with RCW 81.112.030(10), at the 2007 general election the participating counties shall submit a regional transportation investment plan on the same ballot along with a proposition to support additional implementation phases of the authority's system and financing plan developed under chapter 81.112 RCW. The plan shall not be considered approved unless voters also approve the proposition to support additional implementation phases of the authority's system and financing plan.

Sec. 9. RCW 29A.36.071 and 2004 c 271 s 169 are each amended to read as follows:

(1) Except as provided to the contrary in RCW 82.14.036, 82.46.021, or 82.80.090, the ballot title of any referendum filed on an enactment or portion of an enactment of a local government and any other question submitted to the voters of a local government consists of three elements: (a) An identification of the enacting legislative body and a statement of the subject matter; (b) a concise description of the measure; and (c) a question. The ballot title must conform with the requirements and be displayed substantially as provided under RCW 29A.72.050, except that the concise description must not exceed seventy-five words; however, a concise description submitted on behalf of a proposed or existing regional transportation investment district may exceed seventy- five words. If the local governmental unit is a city or a town, the concise statement shall be prepared by the city or town attorney. If the local governmental unit is a county, the concise statement shall be prepared by the prosecuting attorney of the county. If the unit is a unit of local government other than a city, town, or county, the concise statement shall be prepared by the prosecuting attorney of the county within which the majority area of the unit is located.

(2) A referendum measure on the enactment of a unit of local government shall be advertised in the manner provided for nominees for elective office.

(3) Subsection (1) of this section does not apply if another provision of law specifies the ballot title for a specific type of ballot question or proposition.

Sec. 10. RCW 36.120.080 and 2002 c 56 s 108 are each amended to read as follows:

If the voters approve the plan, including creation of a regional transportation investment district and imposition of taxes and fees, the district will be declared formed. The county election officials of participating counties shall, within fifteen days of the final certification of the election results, publish a notice in a newspaper or newspapers of general circulation in the district declaring the district formed, and mail copies of the notice to the governor, the secretary of transportation, the executive director of the regional transit authority in which any part of the district is located, and the executive director of the regional transportation planning organization in which any part of the district is located. A party challenging the procedure or the formation of a voter-approved district must file the challenge in writing by serving the prosecuting attorney of the participating counties and the attorney general within thirty days after the final certification of the election. Failure to challenge within that time forever bars further challenge of the district's valid formation.

Sec. 11. RCW 36.120.110 and 2002 c 56 s 111 are each amended to read as follows:

(1) The governing board of the district is responsible for the execution of the voter-approved plan. The board shall:

(a) Impose taxes and fees authorized by district voters;

(b) Enter into agreements with state, local, and regional agencies and departments as necessary to accomplish district purposes and protect the district's investment in transportation projects;

(c) Accept gifts, grants, or other contributions of funds that will support the purposes and programs of the district;

(d) Monitor and audit the progress and execution of transportation projects to protect the investment of the public and annually make public its findings;

(e) Pay for services and enter into leases and contracts, including professional service contracts;

(f) Hire no more than ten employees, including a director or executive officer, a treasurer or financial officer, a project manager or engineer, a project permit coordinator, and clerical staff; and

(g) Coordinate its activities with affected cities, towns, and other local governments, including any regional transit authority existing either partially or entirely within the district area, that engage in transportation planning; and

(h) Exercise other powers and duties as may be reasonable to carry out the purposes of the district.

(2) It is the intent of the legislature that existing staff resources of lead agencies be used in implementing this chapter. A district may coordinate its activities with the department, which shall provide services, data, and personnel to assist as desired by the regional transportation investment district. Lead agencies for transportation projects that are not state facilities shall also provide staff support for the board.

(3) A district may not acquire, hold, or dispose of real property.

(4) Except for the limited purposes provided under RCW 36.120.020(8), a district may not own, operate, or maintain an ongoing facility, road, or transportation system.

(5) A district may accept and expend or use gifts, grants, or donations.

(6) It is the intent of the legislature that administrative and overhead costs of a regional transportation investment district be minimized. For transportation projects costing up to fifty million dollars, administrative and overhead costs may not exceed three percent of the total construction and design project costs per year. For transportation projects costing more than fifty million dollars, administrative and overhead costs may not exceed three percent of the first fifty million dollars in costs, plus an additional one-tenth of one percent of each additional dollar above fifty million. These limitations apply only to the district, and do not limit the administration or expenditures of the department.

(7) A district may use the design-build procedure for transportation projects developed by it. As used in this section "design-build procedure" means a method of contracting under which the district contracts with another party for that party to both design and build the structures, facilities, and other items specified in the contract. The requirements and limitations of RCW 47.20.780 and 47.20.785 do not apply to the transportation projects under this chapter.

Sec. 12. RCW 81.112.030 and 1994 c 44 s 1 are each amended to read as follows:

Two or more contiguous counties each having a population of four hundred thousand persons or more may establish a regional transit authority to develop and operate a high capacity transportation system as defined in chapter 81.104 RCW.

The authority shall be formed in the following manner:

(1) The joint regional policy committee created pursuant to RCW 81.104.040 shall adopt a system and financing plan, including the definition of the service area. This action shall be completed by September 1, 1992, contingent upon satisfactory completion of the planning process defined in RCW 81.104.100. The final system plan shall be adopted no later than June 30, 1993. In addition to the requirements of RCW 81.104.100, the plan for the proposed system shall provide explicitly for a minimum portion of new tax revenues to be allocated to local transit agencies for interim express services. Upon adoption the joint regional policy committee shall immediately transmit the plan to the county legislative authorities within the adopted service area.

(2) The legislative authorities of the counties within the service area shall decide by resolution whether to participate in the authority. This action shall be completed within forty-five days following receipt of the adopted plan or by August 13, 1993, whichever comes first.

(3) Each county that chooses to participate in the authority shall appoint its board members as set forth in RCW 81.112.040 and shall submit its list of members to the secretary of the Washington state department of transportation. These actions must be completed within thirty days following each county's decision to participate in the authority.

(4) The secretary shall call the first meeting of the authority, to be held within thirty days following receipt of the appointments. At its first meeting, the authority shall elect officers and provide for the adoption of rules and other operating procedures.

(5) The authority is formally constituted at its first meeting and the board shall begin taking steps toward implementation of the system and financing plan adopted by the joint regional policy committee. If the joint regional policy committee fails to adopt a plan by June 30, 1993, the authority shall proceed to do so based on the work completed by that date by the joint regional policy committee. Upon formation of the authority, the joint regional policy committee shall cease to exist. The authority may make minor modifications to the plan as deemed necessary and shall at a minimum review local transit agencies' plans to ensure feeder service/high capacity transit service integration, ensure fare integration, and ensure avoidance of parallel competitive services. The authority shall also conduct a minimum thirty-day public comment period.

(6) If the authority determines that major modifications to the plan are necessary before the initial ballot proposition is submitted to the voters, the authority may make those modifications with a favorable vote of two-thirds of the entire membership. Any such modification shall be subject to the review process set forth in RCW 81.104.110. The modified plan shall be transmitted to the legislative authorities of the participating counties. The legislative authorities shall have forty-five days following receipt to act by motion or ordinance to confirm or rescind their continued participation in the authority.

(7) If any county opts to not participate in the authority, but two or more contiguous counties do choose to continue to participate, the authority's board shall be revised accordingly. The authority shall, within forty-five days, redefine the system and financing plan to reflect elimination of one or more counties, and submit the redefined plan to the legislative authorities of the remaining counties for their decision as to whether to continue to participate. This action shall be completed within forty-five days following receipt of the redefined plan.

(8) The authority shall place on the ballot within two years of the authority's formation, a single ballot proposition to authorize the imposition of taxes to support the implementation of an appropriate phase of the plan within its service area. In addition to the system plan requirements contained in RCW 81.104.100(2)(d), the system plan approved by the authority's board before the submittal of a proposition to the voters shall contain an equity element which:

(a) Identifies revenues anticipated to be generated by corridor and by county within the authority's boundaries;

(b) Identifies the phasing of construction and operation of high capacity system facilities, services, and benefits in each corridor. Phasing decisions should give priority to jurisdictions which have adopted transit-supportive land use plans; and

(c) Identifies the degree to which revenues generated within each county will benefit the residents of that county, and identifies when such benefits will accrue.

A simple majority of those voting within the boundaries of the authority is required for approval. If the vote is affirmative, the authority shall begin implementation of the projects identified in the proposition. However, the authority may not submit any authorizing proposition for voter-approved taxes prior to July 1, 1993; nor may the authority issue bonds or form any local improvement district prior to July 1, 1993.

(9) If the vote on a proposition fails, the board may redefine the proposition, make changes to the authority boundaries, and make corresponding changes to the composition of the board. If the composition of the board is changed, the participating counties shall revise the membership of the board accordingly. The board may then submit the revised proposition or a different proposition to the voters. No single proposition may be submitted to the voters more than twice. Beginning no sooner than the 2007 general election, the authority may place additional propositions on the ballot to impose taxes to support additional phases of plan implementation.

(10) In conjunction with RCW 36.120.070, at the 2007 general election the authority shall submit a proposition to support additional implementation phases of the authority's system and financing plan on the same ballot along with a regional transportation investment plan developed under chapter 36.120 RCW. The proposition shall not be considered approved unless voters also approve the regional transportation investment plan.

(11) Additional phases of plan implementation may include a transportation subarea equity element which (a) identifies the

combined authority and regional transportation investment district revenues anticipated to be generated by corridor and by county within the authority's boundaries, and (b) identifies the degree to which the combined authority and regional transportation investment district revenues generated within each county will benefit the residents of that county, and identifies when such benefits will accrue. For purposes of the transportation subarea equity principle established under this subsection, the authority may use the five subareas within the authority's boundaries as identified in the authority's system plan adopted in May 1996.

(12) If the authority is unable to achieve a positive vote on a proposition within two years from the date of the first election on a proposition, the board may, by resolution, reconstitute the authority as a single-county body. With a two-thirds vote of the entire membership of the voting members, the board may also dissolve the authority.

Sec. 13. RCW 36.120.050 and 2003 c 350 s 4 are each amended to read as follows:

(1) A regional transportation investment district planning committee may, as part of a regional transportation investment plan, recommend the imposition or authorization of some or all of the following revenue sources, which a regional transportation investment district may impose or authorize upon approval of the voters as provided in this chapter:

(a) A regional sales and use tax, as specified in RCW 82.14.430, of up to ((~~0.5~~)) 0.1 percent of the selling price, in the case of a sales tax, or value of the article used, in the case of a use tax, upon the occurrence of any taxable event in the regional transportation investment district;

(b) A local option vehicle license fee, as specified under RCW 82.80.100, of up to one hundred dollars per vehicle registered in the district. As used in this subsection, "vehicle" means motor vehicle as defined in RCW 46.04.320. Certain classes of vehicles, as defined under chapter 46.04 RCW, may be exempted from this fee;

(c) A parking tax under RCW 82.80.030;

(d) A local motor vehicle excise tax under RCW 81.100.060 ((~~and chapter 81.104 RCW~~));

(e) A local option fuel tax under RCW 82.80.120;

(f) An employer excise tax under RCW 81.100.030; and

(g) Vehicle tolls on new or reconstructed ((~~facilities.~~)) local or regional arterials or state or federal highways within the boundaries of the district, if the following conditions are met:

(i) Any such toll must be approved by the state transportation commission or its successor statewide tolling authority;

(ii) The regional transportation investment plan must identify the facilities that may be tolled; and

(iii) Unless otherwise specified by law, the department shall administer the collection of vehicle tolls on designated facilities, and the state transportation commission, or its successor, shall be the tolling authority.

(2) Taxes, fees, and tolls may not be imposed or authorized without an affirmative vote of the majority of the voters within the boundaries of the district voting on a ballot proposition as set forth in RCW 36.120.070. Revenues from these taxes and fees may be used only to implement the plan as set forth in this chapter. A district may contract with the state department of revenue or other appropriate entities for administration and collection of any of the taxes or fees authorized in this section.

(3) Existing statewide motor vehicle fuel and special fuel taxes, at the distribution rates in effect on January 1, 2001, are not intended to be altered by this chapter.

Sec. 14. RCW 81.100.080 and 1990 c 43 s 19 are each amended to read as follows:

(1) Funds collected under RCW 81.100.030 or 81.100.060 and any investment earnings accruing thereon shall be used by the county or the regional transportation investment district in a manner consistent with the regional transportation plan only for costs of collection, costs of preparing, adopting, and enforcing agreements under RCW 81.100.030(3), for construction of high occupancy vehicle lanes and related facilities, mitigation of environmental concerns that result from construction or use of high occupancy vehicle lanes and related facilities, payment of principal and interest on bonds issued for the purposes of this section, for high occupancy vehicle programs as defined in RCW 81.100.020(5), ((~~and~~)) or for commuter rail projects in accordance with RCW 81.104.120. Except for funds raised by an investment district, no funds collected under RCW 81.100.030 or 81.100.060 after June 30, 2000, may be pledged for the payment or security of the principal or interest on any bonds issued for the purposes of this section. Not more than ten percent of the funds may be used for transit agency high occupancy vehicle programs.

(2) Notwithstanding the limitations in this chapter, a regional transportation investment district may use funds collected under RCW 81.100.030 or 81.100.060 and any investment earnings accruing thereon for projects contained in a plan developed under chapter 36.120 RCW. These expenditures shall not be limited to high occupancy vehicle systems.

(3) Priorities for construction of high occupancy vehicle lanes and related facilities shall be as follows:

(((~~(1)~~)))(a)(i) To accelerate construction of high occupancy vehicle lanes on the interstate highway system, as well as related facilities;

(((~~(b)~~))) (ii) To finance or accelerate construction of high occupancy vehicle lanes on the noninterstate state highway system, as well as related facilities.

(((~~(2)~~))) (b) To finance construction of high occupancy vehicle lanes on local arterials, as well as related facilities.

(4) Moneys received by ((~~an agency~~)) a county under this chapter shall be used in addition to, and not as a substitute for, moneys currently used by the ((~~agency~~)) county for the purposes specified in this section.

(5) Counties and investment districts may contract with cities or the state department of transportation for construction of high occupancy vehicle lanes and related facilities, and may issue general obligation bonds to fund such construction and use funds received under this chapter to pay the principal and interest on such bonds.

Sec. 15. RCW 81.100.060 and 2002 c 56 s 411 are each amended to read as follows:

A county with a population of one million or more and a county with a population of from two hundred ten thousand to less than one million that is adjoining a county with a population of one million or more, having within their boundaries existing or planned high-occupancy vehicle lanes on the state highway system, or a regional transportation investment district ((~~for capital improvements~~)), but only to the extent that the surcharge has not already been imposed by the county, may, with voter approval, impose a local surcharge of not more than three-tenths of one percent in the case of a county, or eight-tenths of one percent in the case of a regional transportation investment district, of the value on vehicles registered to a person residing within the county or investment district and not more than 13.64 percent on the state sales and use taxes paid under the rate in RCW 82.08.020(2) on retail car rentals within the county or investment district. A county may impose the surcharge only to the extent that it has not been imposed by the district. No surcharge may be imposed on vehicles licensed under RCW 46.16.070 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16.079, 46.16.085, or 46.16.090.

Counties or investment districts imposing a ((~~tax~~)) surcharge under this section shall contract, before the effective date of the resolution or ordinance imposing a surcharge, administration and collection to the state department of licensing, and department of revenue, as appropriate, which shall deduct ((~~an~~)) a percentage amount, as provided by contract, not to exceed two percent of the taxes, for administration and collection expenses

incurred by the department. All administrative provisions in chapters 82.03, 82.32, and 82.44 RCW shall, insofar as they are applicable to motor vehicle excise taxes, be applicable to surcharges imposed under this section. All administrative provisions in chapters 82.03, 82.08, 82.12, and 82.32 RCW shall, insofar as they are applicable to state sales and use taxes, be applicable to surcharges imposed under this section. A surcharge imposed under this section, or a change to the surcharge, shall take effect no sooner than seventy-five days after the department of licensing or the department of revenue receives notice of the surcharge or change to the surcharge, and shall take effect only on the first day of January, April, July, or October. Unless waived by the department of licensing or the department of revenue, notice includes providing the appropriate department with digital mapping and legal descriptions of areas in which the tax will be collected.

If the tax authorized in RCW 81.100.030 is also imposed, the total proceeds from tax sources imposed under this section and RCW 81.100.030 each year shall not exceed the maximum amount which could be collected under this section.

Sec. 16. RCW 82.14.0455 and 2005 c 336 s 15 are each amended to read as follows:

(1) Subject to the provisions in RCW 36.73.065, a transportation benefit district under chapter 36.73 RCW may fix and impose a sales and use tax in accordance with the terms of this chapter. The tax authorized in this section is in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the boundaries of the district. The rate of tax shall not exceed two-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. The tax may not be imposed for a period exceeding ten years. This tax may be extended for a period not exceeding ten years with an affirmative vote of the voters voting at the election.

(2) Money received from the tax imposed under this section must be spent in accordance with the requirements of chapter 36.73 RCW.

((~~(3) A district may only levy the tax under this section if the district is comprised of boundaries coextensive with the boundaries of a county, counties, city or cities, a county transportation authority or authorities, a public transportation benefit area or areas, or any combination of these jurisdictions.~~))

Sec. 17. RCW 82.14.430 and 2002 c 56 s 405 are each amended to read as follows:

(1) If approved by the majority of the voters within its boundaries voting on the ballot proposition, a regional transportation investment district may impose a sales and use tax of up to ((~~0.5~~)) 0.1 percent of the selling price or value of the article used in the case of a use tax. The tax authorized by this section is in addition to the tax authorized by RCW 82.14.030 and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing district. Motor vehicles are exempt from the sales and use tax imposed under this subsection.

(2) If approved by the majority of the voters within its boundaries voting on the ballot proposition, a regional transportation investment district may impose a tax on the use of a motor vehicle within a regional transportation investment district. The tax applies to those persons who reside within the regional transportation investment district. The rate of the tax may not exceed ((~~0.5~~)) 0.1 percent of the value of the motor vehicle. The tax authorized by this subsection is in addition to the tax authorized under RCW 82.14.030 and must be imposed and collected at the time a taxable event under RCW 82.08.020(1) or 82.12.020 takes place. All revenue received under this subsection must be deposited in the local sales and use tax account and distributed to the regional transportation investment district according to RCW 82.14.050. The following provisions apply to the use tax in this subsection:

(a) Where persons are taxable under chapter 82.08 RCW, the seller shall collect the use tax from the buyer using the collection provisions of RCW 82.08.050.

(b) Where persons are taxable under chapter 82.12 RCW, the use tax must be collected using the provisions of RCW 82.12.045.

(c) "Motor vehicle" has the meaning provided in RCW 46.04.320, but does not include farm tractors or farm vehicles as defined in RCW 46.04.180 and 46.04.181, off-road and nonhighway vehicles as defined in RCW 46.09.020, and snowmobiles as defined in RCW 46.10.010.

(d) "Person" has the meaning given in RCW 82.04.030.

(e) The value of a motor vehicle must be determined under RCW 82.12.010.

(f) Except as specifically stated in this subsection (2), chapters 82.12 and 82.32 RCW apply to the use tax. The use tax is a local tax imposed under the authority of chapter 82.14 RCW, and chapter 82.14 RCW applies fully to the use tax.

(3) In addition to fulfilling the notice requirements under RCW 82.14.055(1), and unless waived by the department, a regional transportation investment district shall provide the department of revenue with digital mapping and legal descriptions of areas in which the tax will be collected.

Sec. 18. RCW 82.80.120 and 2003 c 350 s 3 are each amended to read as follows:

(1) For purposes of this section:

(a) "Distributor" means every person who imports, refines, manufactures, produces, or compounds motor vehicle fuel and special fuel as defined in RCW 82.36.010 and 82.38.020, respectively, and sells or distributes the fuel into a county;

(b) "Person" has the same meaning as in RCW 82.04.030;

(c) "District" means a regional transportation investment district under chapter 36.120 RCW.

(2) A regional transportation investment district under chapter 36.120 RCW, subject to the conditions of this section, may levy additional excise taxes equal to ten percent of the statewide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor vehicle fuel as defined in RCW 82.36.010 and on each gallon of special fuel as defined in RCW 82.38.020 sold within the boundaries of the district. The additional excise tax is subject to the approval of a majority of the voters within the district boundaries. Vehicles paying an annual license fee under RCW 82.38.075 are exempt from the district's fuel excise tax. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapters 82.36 and 82.38 RCW. The proposed tax may not be levied less than one month from the date the election results are certified. The commencement date for the levy of any tax under this section will be the first day of January, April, July, or October.

(3) The local option motor vehicle fuel tax on each gallon of motor vehicle fuel and on each gallon of special fuel is imposed upon the distributor of the fuel.

(4) A taxable event for the purposes of this section occurs upon the first distribution of the fuel within the boundaries of the district to a retail outlet, bulk fuel user, or ultimate user of the fuel.

(5) All administrative provisions in chapters 82.01, 82.03, and 82.32 RCW, insofar as they are applicable, apply to local option fuel taxes imposed under this section.

(6) Before the effective date of the imposition of the fuel taxes under this section, a district shall contract with the department of ((~~revenue~~)) licensing for the administration and collection of the taxes. The contract must provide that a percentage amount, not to exceed one percent of the taxes imposed under this section, will be deposited into the local tax administration account created in the custody of the state treasurer. The department of ((~~revenue~~)) licensing may spend

money from this account, upon appropriation, for the administration of the local taxes imposed under this section.

(7) The state treasurer shall distribute monthly to the district levying the tax as part of the regional transportation investment district plan, after the deductions for payments and expenditures as provided in RCW 46.68.090(1) (a) and (b).

(8) The proceeds of the additional taxes levied by a district in this section, to be used as a part of a regional transportation investment district plan, must be used in accordance with chapter 36.120 RCW, but only for those areas that are considered "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(9) A district may only levy the tax under this section if the district is comprised of boundaries identical to the boundaries of a county or counties. A district may not levy the tax in this section if a member county is levying the tax in RCW 82.80.010 or 82.80.110.

Sec. 19. RCW 47.56.076 and 2005 c 335 s 3 are each amended to read as follows:

Upon approval of a majority of the voters within its boundaries voting on the ballot proposition, and ((~~only for the purposes authorized in RCW 36.120.050(1)(g)~~)) with the approval of the state transportation commission or its successor statewide tolling authority, a regional transportation investment district may authorize vehicle tolls on a local or regional arterial or a state ((~~routes where improvements financed in whole or in part by a regional transportation investment district add additional lanes to, or reconstruct lanes on, a highway of statewide significance~~)) or federal highway within the boundaries of the district. The department shall administer the collection of vehicle tolls authorized on designated facilities unless otherwise specified in law or by contract, and the ((~~state transportation~~)) commission((~~,~~)) or its successor((~~,~~)) statewide tolling authority shall ((~~be the tolling authority~~)) set and impose the tolls in amounts sufficient to implement the regional transportation investment plan under RCW 36.120.020.

NEW SECTION. **Sec. 20.** A new section is added to chapter 47.56 RCW to read as follows:

Notwithstanding any provision to the contrary in this chapter, a regional transportation investment district may authorize vehicle tolls on either Lake Washington bridge within its boundaries to implement a regional transportation investment plan as authorized in chapter 36.120 RCW and RCW 47.56.076.

Sec. 21. RCW 43.79A.040 and 2005 c 424 s 18, 2005 c 402 s 8, 2005 c 215 s 10, and 2005 c 16 s 2 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment 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)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), and the life sciences discovery fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) 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 advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

Sec. 22. RCW 43.84.092 and 2005 c 514 s 1105, 2005 c 353 s 3, 2005 c 339 s 22, 2005 c 314 s 109, 2005 c 312 s 7, and 2005 c 94 s 1 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:

(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 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 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 emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the freight mobility investment 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 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 Puyallup tribal settlement account, the real estate appraiser commission account, ((~~the regional transportation investment district 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 tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system 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. 23. RCW 43.84.092 and 2005 c 514 s 1106, 2005 c 353 s 4, 2005 c 339 s 23, 2005 c 314 s 110, 2005 c 312 s 8, and 2005 c 94 s 2 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:

(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 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 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 emergency reserve fund, The Evergreen State College capital projects account, the federal forest revolving account, the freight mobility investment 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 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 transportation investment district 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 tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' 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. 24. RCW 36.73.015 and 2005 c 336 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) "District" means a transportation benefit district created under this chapter.

(2) "City" means a city or town.

(3) "Transportation improvement" means a project contained in the transportation plan of the state or a regional transportation planning organization ((~~that is of statewide or regional significance~~)). A project may include investment in new or existing highways of statewide significance, principal arterials of regional significance, high-capacity transportation, public transportation, and other transportation projects and programs of regional or statewide significance including transportation demand management. Projects may also include the operation, preservation, and maintenance of these facilities or programs. ((~~Not more than forty percent of the revenues generated by a district may be expended on city streets, county roads, existing highways other than highways of statewide significance, and the creation of a new highway that intersects with a highway of statewide significance.~~))

Sec. 25. RCW 36.73.020 and 2005 c 336 s 3 are each amended to read as follows:

(1) The legislative authority of a county or city may establish a transportation benefit district within the county or city area or within the area specified in subsection (2) of this section, for the purpose of acquiring, constructing, improving, providing, and funding a transportation improvement within the district that is consistent with any existing state, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels. The transportation

improvements shall be owned by the county of jurisdiction if located in an unincorporated area, by the city of jurisdiction if located in an incorporated area, or by the state in cases where the transportation improvement is or becomes a state highway. However, if deemed appropriate by the governing body of the transportation benefit district, a transportation improvement may be owned by a participating port district or transit district, unless otherwise prohibited by law. Transportation improvements shall be administered and maintained as other public streets, roads, highways, and transportation improvements. To the extent practicable, the district shall consider the following criteria when selecting transportation improvements:

(a) Reduced risk of transportation facility failure and improved safety;

(b) Improved travel time;

(c) Improved air quality;

(d) Increases in daily and peak period trip capacity;

(e) Improved modal connectivity;

(f) Improved freight mobility;

(g) Cost-effectiveness of the investment;

(h) Optimal performance of the system through time; and

(i) Other criteria, as adopted by the governing body.

(2) Subject to subsection (6) of this section, the district may include area within more than one county, city, port district, county transportation authority, or public transportation benefit area, if the legislative authority of each participating jurisdiction has agreed to the inclusion as provided in an interlocal agreement adopted pursuant to chapter 39.34 RCW. However, the boundaries of the district ((~~shall~~)) need not include all territory within the boundaries of the participating jurisdictions comprising the district.

(3) The members of the legislative authority proposing to establish the district, acting ex officio and independently, shall constitute the governing body of the district: PROVIDED, That where a district includes area within more than one jurisdiction under subsection (2) of this section, the district shall be governed under an interlocal agreement adopted pursuant to chapter 39.34 RCW. However, the governing body shall be composed of at least five members including at least one elected official from the legislative authority of each participating jurisdiction.

(4) The treasurer of the jurisdiction proposing to establish the district shall act as the ex officio treasurer of the district, unless an interlocal agreement states otherwise.

(5) The electors of the district shall all be registered voters residing within the district.

(6) Prior to December 1, 2007, the authority under this section, regarding the establishment of or the participation in a district, shall not apply to:

(a) Counties with a population greater than one million five hundred thousand persons and any adjoining counties with a population greater than five hundred thousand persons;

(b) Cities with any area within the counties under (a) of this subsection; and

(c) Other jurisdictions with any area within the counties under (a) of this subsection.

NEW SECTION. **Sec. 26.** A new section is added to chapter 47.01 RCW to read as follows:

The department shall not commence construction on any part of the state route number 520 bridge replacement and HOV project until a record of decision has been reached providing reasonable assurance that project impacts will be avoided, minimized, or mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality as a result of repairs and improvements made to the state route number 520 bridge and its connecting roadways, and that any such impacts will be addressed through engineering design choices, mitigation measures, or a combination of both. The requirements of this section shall not apply to off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.

NEW SECTION. **Sec. 27.** A new section is added to chapter 47.01 RCW to read as follows:

(1) Prior to commencing construction on either project, the department of transportation must complete all of the following requirements for both the Alaskan Way viaduct and Seattle Seawall replacement project, and the state route number 520 bridge replacement and HOV project: (a) In accordance with the national environmental policy act, the department must designate the preferred alternative, prepare a substantial project mitigation plan, and complete a comprehensive cost estimate review using the department's cost estimate validation process, for each project; (b) in accordance with all applicable federal highway administration planning and project management requirements, the department must prepare a project finance plan for each project that clearly identifies secured and anticipated fund sources, cash flow timing requirements, and project staging and phasing plans if applicable; and (c) the department must report these results for each project to the joint transportation committee.

(2) The requirements of this section shall not apply to (a) utility relocation work, and related activities, on the Alaskan Way viaduct and Seattle Seawall replacement project and (b) off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.

NEW SECTION. **Sec. 28.** A new section is added to chapter 47.01 RCW to read as follows:

The legislature recognizes that the finance and project implementation planning processes required for the Alaskan Way viaduct and Seattle Seawall replacement project and the state route number 520 bridge replacement and HOV project cannot guarantee appropriate decisions unless key study assumptions are reasonable with respect to each project.

To assure appropriate finance plan and project implementation plan assumptions, an expert review panel shall be appointed to provide independent financial and technical review for development of a finance plan and project implementation plan for the projects described in this section.

(1) The expert review panel shall consist of five to ten members who are recognized experts in relevant fields, such as planning, engineering, finance, law, the environment, emerging transportation technologies, geography, and economics.

(2) The expert review panel shall be selected cooperatively by the chairs of the senate and house transportation committees, the secretary of the department of transportation, and the governor to assure a balance of disciplines.

(3) The chair of the expert review panel shall be designated by the governor.

(4) The expert review panel shall, with respect to completion of the project alternatives as described in the draft environmental impact statement of each project:

(a) Review the finance plan for the project to ensure that it clearly identifies secured and anticipated funding sources and is feasible and sufficient;

(b) Review the project implementation plan covering all state and local permitting and mitigation approvals that ensure the most expeditious and cost-effective delivery of the project; and

(c) Report its findings and recommendations on the items described in (a) and (b) of this subsection to the joint transportation committee, the office of financial management, and the governor by September 1, 2006.

(5) Upon receipt of the expert review panel's findings and recommendations under subsection (4)(c) of this section, the governor must make a finding of whether each finance plan is feasible and sufficient to complete the project as described in the draft environmental impact statement.

(6) Nothing in this section shall be interpreted to delay construction of any of the projects referenced in this section.

NEW SECTION. **Sec. 29.** A new section is added to chapter 36.120 RCW to read as follows:

The most populous city, within the three-county region eligible to create a regional transportation investment district under this chapter, shall submit an advisory ballot to the city voters at the 2006 general election regarding voter preference of the tunnel and rebuild alternatives described in the environmental impact statement relative to the Alaskan Way viaduct project. The results of the election shall be advisory only and not binding regarding the final project to be constructed.

NEW SECTION. **Sec. 30.** Section 22 of this act expires July 1, 2006.

NEW SECTION. **Sec. 31.** Section 23 of this act takes effect July 1, 2006."

Senator Haugen spoke in favor of adoption of the amendment.

PARLIAMENTARY INQUIRY

Senator Jacobsen: "As I read this, I ask if new section 29 is properly within the scope and object of this bill?"

Senator Jacobsen spoke in favor of the point of order.
Senator Haugen spoke against the point of order.

The President Pro Tempore assumed the chair.

MOTION

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

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2884, by House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Linville and McCoy)

Concerning the use of reclaimed water.

The measure was read the second time.

MOTION

Senator Fraser moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 90.46 RCW to read as follows:

(1) The department of ecology shall, in coordination with the department of health, adopt rules for reclaimed water use consistent with this chapter. The rules must address all aspects of reclaimed water use, including commercial and industrial uses, land applications, direct recharge, wetland discharge, surface percolation, constructed wetlands, and stream flow augmentation. The department of health shall, in coordination with the department of ecology, adopt rules for greywater reuse. The rules must also designate whether the department of ecology or the department of health will be the lead permitting or regulatory agency responsible for a particular aspect of reclaimed water use. In developing the rules, the departments of health and ecology shall amend or rescind any existing rules on reclaimed water in conflict with the new rules.

(2) All rules required to be adopted pursuant to this section must be completed no later than December 31, 2010, although the department of ecology is encouraged to adopt the final rules as soon as possible.

(3) The department of ecology must consult with the advisory committee created under RCW 90.46.050 in all aspects of rule development required under this section.

Sec. 2. RCW 90.46.050 and 1995 c 342 s 9 are each amended to read as follows:

The department of ((~~health~~)) ecology shall, before July 1, ((~~1995~~)) 2006, form an advisory committee, in coordination with the department of ((~~ecology~~)) health and the department of agriculture, which will provide technical assistance in the development of standards, procedures, and guidelines required by this chapter. ((~~Such~~)) The advisory committee shall be composed of ((~~individuals from the public water and wastewater utilities, landscaping enhancement industry, commercial and industrial application community, and any other persons deemed technically helpful by the department of health~~)) a broad range of interested individuals representing the various stakeholders that utilize or are potentially impacted by the use of reclaimed water. The advisory committee must also contain individuals with technical expertise and knowledge of new advancements in technology.

NEW SECTION. **Sec. 3.** The department of ecology must present interim reports to the appropriate committees of the legislature by January 1, 2008, and January 1, 2009, that summarize the steps taken to that date towards the final rule making required by section 1 of this act. The reports must include, at a minimum, a summary of participation in the advisory group and the topics considered by the department.

Sec. 4. RCW 90.46.010 and 2002 c 329 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) "Greywater" means wastewater having the consistency and strength of residential domestic type wastewater. Greywater includes wastewater from sinks, showers, and laundry fixtures, but does not include toilet or urinal waters.

(2) "Land application" means ((~~application of treated effluent for purposes of~~)) use of reclaimed water as permitted under this chapter for irrigation or landscape enhancement for residential, business, and governmental purposes.

(3) "Person" means any state, individual, public or private corporation, political subdivision, governmental subdivision, governmental agency, municipality, copartnership, association, firm, trust estate, or any other legal entity whatever.

(4) "Reclaimed water" means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for a beneficial use or a controlled use that would not otherwise occur and is no longer considered wastewater.

(5) "Sewage" means water-carried human wastes from residences, buildings, industrial and commercial establishments, or other places, together with such ground water infiltration, surface waters, or industrial wastewater as may be present.

(6) "User" means any person who uses reclaimed water.

(7) "Wastewater" means water and wastes discharged from homes, businesses, and industry to the sewer system.

(8) "Beneficial use" means the use of reclaimed water, that has been transported from the point of production to the point of use without an intervening discharge to the waters of the state, for a beneficial purpose.

(9) "Direct recharge" means the controlled subsurface addition of water directly to the ground water basin that results in the replenishment of ground water.

(10) "Ground water recharge criteria" means the contaminant criteria found in the drinking water quality standards adopted by the state board of health pursuant to chapter 43.20 RCW and the department of health pursuant to chapter 70.119A RCW.

(11) "Planned ground water recharge project" means any reclaimed water project designed for the purpose of recharging ground water, via direct recharge or surface percolation.

(12) "Reclamation criteria" means the criteria set forth in the water reclamation and reuse interim standards and subsequent revisions adopted by the department of ecology and the department of health.

(13) "Streamflow augmentation" means the discharge of reclaimed water to rivers and streams of the state or other surface water bodies, but not wetlands.

(14) "Surface percolation" means the controlled application of water to the ground surface for the purpose of replenishing ground water.

(15) "Wetland or wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands regulated under this chapter shall be delineated in accordance with the manual adopted by the department of ecology pursuant to RCW 90.58.380.

(16) "Constructed beneficial use wetlands" means those wetlands intentionally constructed on nonwetland sites to produce or replace natural wetland functions and values. Constructed beneficial use wetlands are considered "waters of the state."

(17) "Constructed treatment wetlands" means those wetlands intentionally constructed on nonwetland sites and managed for the primary purpose of ((~~wastewater or storm water treatment~~)) polishing reclaimed water or aesthetics. Constructed treatment wetlands are considered part of the collection and treatment system and are not considered "waters of the state."

(18) "Agricultural industrial process water" means water that has been used for the purpose of agricultural processing and has been adequately and reliably treated, so that as a result of that treatment, it is suitable for other agricultural water use.

(19) "Agricultural processing" means the processing of crops or milk to produce a product primarily for wholesale or retail sale for human or animal consumption, including but not limited to potato, fruit, vegetable, and grain processing.

(20) "Agricultural water use" means the use of water for irrigation and other uses related to the production of agricultural products. These uses include, but are not limited to, construction, operation, and maintenance of agricultural facilities and livestock operations at farms, ranches, dairies, and nurseries. Examples of these uses include, but are not limited to, dust control, temperature control, and fire control.

(21) "Industrial reuse water" means water that has been used for the purpose of industrial processing and has been adequately and reliably treated so that, as a result of that treatment, it is suitable for other uses.

Sec. 5. RCW 90.46.030 and 2005 c 59 s 1 are each amended to read as follows:

(1)(a) The department of health shall, in coordination with the department of ecology, adopt a single set of standards, procedures, and guidelines on or before August 1, 1993, for the industrial and commercial use of reclaimed water.

(b) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to the industrial and commercial use of reclaimed water.

(2) Unless the department of ecology adopts rules pursuant to section 1 of this act that relate to the industrial and commercial use of reclaimed water specifying otherwise, the department of health may issue a reclaimed water permit for industrial and commercial uses of reclaimed water to the generator of reclaimed water who may then distribute the water, subject to provisions in the permit governing the location, rate, water quality, and purposes of use. Permits issued after the adoption of rules under section 1 of this act must be consistent with the adopted rules.

(3) The department of health in consultation with the advisory committee established in RCW 90.46.050, shall develop recommendations for a fee structure for permits issued under subsection (2) of this section. Fees shall be established in amounts to fully recover, and not exceed, expenses incurred by the department of health in processing permit applications and modifications, monitoring and evaluating compliance with permits, and conducting inspections and supporting the reasonable overhead expenses that are directly related to these activities. Permit fees may not be used for research or enforcement activities. The department of health shall not issue permits under this section until a fee structure has been established.

(4) A permit under this section for use of reclaimed water may be issued only to:

(a) A municipal, quasi-municipal, or other governmental entity;

(b) A private utility as defined in RCW 36.94.010; or

(c) The holder of a waste discharge permit issued under chapter 90.48 RCW.

(5) The authority and duties created in this section are in addition to any authority and duties already provided in law with regard to sewage and wastewater collection, treatment, and disposal for the protection of health and safety of the state's waters. Nothing in this section limits the powers of the state or any political subdivision to exercise such authority.

(6) Unless the department of ecology adopts rules pursuant to section 1 of this act that relate to the industrial and commercial use of reclaimed water specifying otherwise, the department of health may implement the requirements of this section through the department of ecology by execution of a formal agreement between the departments. Upon execution of such an agreement, the department of ecology may issue reclaimed water permits for industrial and commercial uses of reclaimed water by issuance of permits under chapter 90.48 RCW, and may establish and collect fees as required for permits issued under chapter 90.48 RCW.

(7) Unless the department of ecology adopts rules pursuant to section 1 of this act that relate to the industrial and commercial use of reclaimed water specifying otherwise, and before deciding whether to issue a permit under this section to a private utility, the department of health may require information that is reasonable and necessary to determine whether the private utility has the financial and other resources to ((~~assure~~)) ensure the reliability, continuity, and supervision of the reclaimed water facility.

Sec. 6. RCW 90.46.040 and 2005 c 59 s 2 are each amended to read as follows:

(1)(a) The department of ecology shall, in coordination with the department of health, adopt a single set of standards, procedures, and guidelines, on or before August 1, 1993, for land applications of reclaimed water.

(b) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to the land application of reclaimed water.

(2) A permit is required for any land application of reclaimed water. The department of ecology may issue a reclaimed water permit under chapter 90.48 RCW to the generator of reclaimed water who may then distribute the water, subject to provisions in the permit governing the location, rate, water quality, and purpose of use. The department of ecology shall not issue more than one permit for any individual land application of reclaimed water to a single generator.

(3) In cases where the department of ecology determines, in land applications of reclaimed water, that a significant risk to the public health exists, the department shall refer the application to the department of health for review and consultation and the department of health may require fees

appropriate for review and consultation from the applicant pursuant to RCW 43.70.250.

(4) A permit under this section for use of reclaimed water may be issued only to:

(a) A municipal, quasi-municipal, or other governmental entity;

(b) A private utility as defined under RCW 36.94.010; or

(c) The holder of a waste discharge permit issued under chapter 90.48 RCW.

(5) The authority and duties created in this section are in addition to any authority and duties already provided in law. Nothing in this section limits the powers of the state or any political subdivision to exercise such authority.

(6) Before deciding whether to issue a permit under this section to a private utility, the department of ecology may require information that is reasonable and necessary to determine whether the private utility has the financial and other resources to ((~~assure~~)) ensure the reliability, continuity, and supervision of the reclaimed water facility.

Sec. 7. RCW 90.46.042 and 1995 c 342 s 6 are each amended to read as follows:

(1) The department of ecology shall, in consultation with the department of health, adopt a single set of standards, procedures, and guidelines, on or before December 31, 1996, for direct recharge using reclaimed water. The standards shall address both water quality considerations and avoidance of property damage from excessive recharge.

(2) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to direct recharge using reclaimed water.

Sec. 8. RCW 90.46.044 and 1995 c 342 s 7 are each amended to read as follows:

(1) The department of ecology shall, in consultation with the department of health, adopt a single set of standards, procedures, and guidelines, on or before June 30, 1996, for discharge of reclaimed water to wetlands.

(2) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to discharge of reclaimed water to wetlands.

Sec. 9. RCW 90.46.080 and 1997 c 444 s 6 are each amended to read as follows:

(1) Except as otherwise provided in this section, reclaimed water may be beneficially used for surface percolation provided the reclaimed water meets the ground water recharge criteria as measured in ground water beneath or down gradient of the recharge project site, and has been incorporated into a sewer or water comprehensive plan, as applicable, adopted by the applicable local government and approved by the department of health or department of ecology as applicable.

(2) If the state ground water recharge criteria as defined by RCW 90.46.010 do not contain a standard for a constituent or contaminant, the department of ecology shall establish a discharge limit consistent with the goals of this chapter, except as otherwise provided in this section.

(3) Except as otherwise provided in this section, reclaimed water that does not meet the ground water recharge criteria may be beneficially used for surface percolation where the department of ecology, in consultation with the department of health, has specifically authorized such use at such lower standard.

(4) The provisions of this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to surface percolation.

Sec. 10. RCW 90.46.090 and 1997 c 444 s 7 are each amended to read as follows:

(1) Reclaimed water may be beneficially used for discharge into constructed beneficial use wetlands and constructed treatment wetlands provided the reclaimed water meets the class A or B reclaimed water standards as defined in the reclamation criteria, and the discharge is incorporated into a sewer or water comprehensive plan, as applicable, adopted by the applicable local government and approved by the department of health or department of ecology as applicable.

(2) Reclaimed water that does not meet the class A or B reclaimed water standards may be beneficially used for discharge into constructed treatment wetlands where the department of ecology, in consultation with the department of health, has specifically authorized such use at such lower standards.

(3)(a) The department of ecology and the department of health must develop appropriate standards for discharging reclaimed water into constructed beneficial use wetlands and constructed treatment wetlands. These standards must be considered as part of the approval process under subsections (1) and (2) of this section.

(b) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to discharge into constructed beneficial use wetlands and constructed treatment wetlands.

Sec. 11. RCW 90.46.100 and 1995 c 342 s 5 are each amended to read as follows:

(1) Reclaimed water intended for beneficial reuse may be discharged for streamflow augmentation provided the reclaimed water meets the requirements of the federal water pollution control act, chapter 90.48 RCW, and is incorporated into a sewer or water comprehensive plan, as applicable, adopted by the applicable local government and approved by the department of health or department of ecology as applicable.

(2) Standards adopted under this section are superseded by any rules adopted by the department of ecology pursuant to section 1 of this act as they relate to discharge of reclaimed water for streamflow augmentation.

NEW SECTION. **Sec. 12.** The code reviser shall alphabetize and renumber the definitions in RCW 90.46.010."

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

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2884.

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

MOTION

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

On page 1, line 1 of the title, after "water;" strike the remainder of the title and insert "amending RCW 90.46.050, 90.46.010, 90.46.030, 90.46.040, 90.46.042, 90.46.044, 90.46.080, 90.46.090, and 90.46.100; adding a new section to chapter 90.46 RCW; and creating new sections."

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute House Bill No. 2884 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Fraser and Morton spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Honeyford: "Would the Senator from the Seventh District yield to a question? Senator, may we use brasso or a blitz cloth to polish this water?"

Senator Morton: "That certainly I think would sharpen it considerably and be of benefit too. Thank you Senator."

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2884 as amended by the Senate

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2884 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Deccio, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 46

Excused: Senators Benson, McCaslin and Oke - 3

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2884 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2673, by House Committee on Finance (originally sponsored by Representatives Linville, Ericksen, P. Sullivan, Buck, Ericks, Kilmer, Kessler, Grant, Walsh, B. Sullivan, Lantz, Morris, O'Brien, Conway, Morrell and Wallace)

Providing tools for local infrastructure financing. Revised for 2nd Substitute: Authorizing additional alternatives for local infrastructure financing.

The measure was read the second time.

MOTION

Senator Brown moved that the following committee striking amendment by the Committee on Ways & Means be not adopted.

Strike everything after the enacting clause and insert the following:

"PART I
LOCAL INFRASTRUCTURE IMPROVEMENT FINANCING--GENERAL PROVISIONS

NEW SECTION. **Sec. 101.** The legislature recognizes that the state as a whole benefits from investment in public infrastructure because it promotes community and economic development. Public investment stimulates business activity and helps create jobs; stimulates the redevelopment of brownfields and blighted areas in the inner city; lowers the cost of housing; and promotes efficient land use. The legislature finds that these activities generate revenue for the state and that it is in the public interest to invest in these projects through a credit against the state sales and use tax and an allocation of property tax revenue to those sponsoring local governments that can demonstrate the expected returns to the state.

NEW SECTION. **Sec. 102.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Base year" means the first calendar year following the creation of an infrastructure improvement area.

(2) "Department" means the department of revenue.

(3) "Excess state excise taxes" means the amount of excise taxes received by the state during the measurement year from taxable activity within the infrastructure improvement area over and above the amount of excise taxes received by the state during the base year from taxable activity within the infrastructure improvement area. However, if a local government creates an infrastructure improvement area and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred in the twelve months immediately preceding the creation of the infrastructure improvement area within the boundaries of the area that became the infrastructure improvement area, "excess state excise taxes" means the entire amount of excise taxes received by the state during a calendar year period beginning with the calendar year immediately following the creation of the infrastructure improvement area and continuing with each measurement year thereafter.

(4) "Excise taxes" means the state retail sales and use taxes imposed under chapters 82.08 and 82.12 RCW.

(5) "Fiscal year" has the same meaning as in section 104(3) of this act.

(6) "Infrastructure improvement area" means the geographic area from which taxes are to be used to finance public improvements authorized under this chapter.

(7) "Local government" means any city, town, county, port district, or any combination thereof.

(8) "Local infrastructure improvement financing" means the sales and use tax authorized in section 201 of this act and the tax allocation revenues authorized in section 204 of this act.

(9) "Measurement year" means a calendar year, beginning with the calendar year following the base year and each calendar year thereafter, that is used annually to measure the amount of excess excise taxes required to be used to finance public improvement costs associated with public improvements financed in whole or in part by local infrastructure improvement financing.

(10) "Ordinance" means any appropriate method of taking legislative action by a local government.

(11) "Participating taxing authority" means a taxing authority that has entered into a written agreement with a local government for the use of local infrastructure improvement financing to the extent of allocating excess excise taxes to the local government for the purpose of financing all or a portion of the costs of designated public improvements.

(12) "Public improvements" means:

(a) Infrastructure improvements within the infrastructure improvement area that include:

(i) Street and road construction and maintenance, including highway interchange construction;

(ii) Water and sewer system construction and improvements, including wastewater reuse facilities;

(iii) Sidewalks and streetlights;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities and recreational areas, including trails; and

(vii) Storm water and drainage management systems; and

(b) Expenditures for any of the following purposes:

(i) Providing environmental analysis, professional management, planning, and promotion within the infrastructure improvement area, including the management and promotion of retail trade activities in the infrastructure improvement area;

(ii) Providing maintenance and security for common or public areas in the infrastructure improvement area; or

(iii) Historic preservation activities authorized under RCW 35.21.395.

(13) "Public improvement costs" means the costs of: (a) Design, planning, acquisition, including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) demolishing, relocating, maintaining, and operating property pending construction of public improvements; (c) relocating utilities as a result of public improvements; (d) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; and (e) administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of local infrastructure improvement financing to fund the costs of the public improvements.

(14) "Tax allocation revenues" means those tax revenues derived from the receipt of excess excise taxes under section 204 of this act.

(15) "Taxing authority" means a governmental entity that imposes a sales or use tax under chapter 82.14 RCW upon the occurrence of any taxable event within a proposed or approved infrastructure improvement area.

NEW SECTION. **Sec. 103.** A local government may finance public improvements using local infrastructure improvement financing subject to the following conditions:

(1) The local government adopts an ordinance designating an infrastructure improvement area within its boundaries and the ordinance specifies the public improvements proposed to be financed in whole or in part with the use of local infrastructure improvement financing. An infrastructure improvement area shall be geographically restricted to the location of the public improvement and adjacent locations that the local government finds to have a high likelihood of receiving direct positive business and economic impacts due to the public improvement, such as a neighborhood or a block. An infrastructure improvement area shall not encompass any one political jurisdiction in its entirety;

(2) The public improvements proposed to be financed in whole or in part using local infrastructure improvement financing are expected to encourage private development within the infrastructure improvement area;

(3) The local government has entered or expects to enter into a contract with a private developer relating to the development of private improvements within the infrastructure improvement area or has received a letter of intent from a private developer relating to the developer's plans for the development of private improvements within the infrastructure improvement area;

(4) Private development that is anticipated to occur within the infrastructure improvement area, as a result of the public improvements, will be consistent with the countywide planning policy adopted by the county under RCW 36.70A.210 and the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW;

(5) The local government may not use local infrastructure improvement financing to finance the costs associated with the financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of public facilities funded with taxes collected under RCW 82.14.048;

(6) The governing body of the local government must make a finding that local infrastructure improvement financing: (a) Will not be used for the purpose of relocating a business from outside the infrastructure improvement area, but within this state, into the infrastructure improvement area; (b) will improve the viability of existing business entities within the infrastructure improvement area; and (c) will be used exclusively in areas within the jurisdiction of the local government deemed in need of economic development and/or redevelopment, and absent the financing available under this act the proposed economic development and/or redevelopment would more than likely not occur;

(7) The governing body of the local government finds that the public improvements proposed to be financed in whole or in part using local infrastructure improvement financing are reasonably likely to:

(a) Increase private investment within the infrastructure improvement area;

(b) Increase employment within the infrastructure improvement area; and

(c) Generate, over the period of time that the local sales and use tax will be imposed under section 201 of this act, state and local sales and use tax revenues that are equal to or greater than the respective state and local contributions made under this chapter.

NEW SECTION. **Sec. 104.** (1) Before adopting an ordinance creating the infrastructure improvement area, a local government must hold a public hearing on the proposed financing of the public improvement in whole or in part with local infrastructure improvement financing.

(a) Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed infrastructure improvement area at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed infrastructure improvement area.

(b) Notice must also be sent by United States mail to the property owners and the business enterprises located within the proposed infrastructure improvement area at least thirty days prior to the hearing. In implementing provisions under this act, the local governing body may also consult with business organizations, including the local chamber of commerce, and the office of minority and women's business enterprises to assist with providing appropriate notice to business enterprises and property owners for whom English is a second language.

(c) Notices must describe the contemplated public improvements, estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by local infrastructure improvement financing, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed infrastructure improvement area, and estimate the period during which local infrastructure improvement financing is contemplated to be used. The public hearing may be held by either the governing body of the local government, or a committee of the governing body that includes at least a majority of the whole governing body.

(2) In order to create an infrastructure improvement area, a local government must adopt an ordinance establishing the infrastructure improvement area that:

(a) Describes the public improvements;

(b) Describes the boundaries of the infrastructure improvement area;

(c) Estimates the cost of the public improvements and the portion of these costs to be financed by local infrastructure improvement financing;

(d) Estimates the time during which tax allocation revenue is to be used to finance public improvement costs associated with the public improvements financed in whole or in part by local infrastructure improvement financing;

(e) Estimates the average amount of tax allocation revenue to be received in all fiscal years through the imposition of a sales and use tax under section 201 of this act;

(f) Provides the date when the apportionment of tax allocation will commence; and

(g) Finds that the conditions of section 103 of this act are met.

(3) For purposes of this section, "fiscal year" means the year beginning July 1st and ending the following June 30th.

NEW SECTION. **Sec. 105.** The local government shall:

(1) Publish notice in a legal newspaper of general circulation within the infrastructure improvement area that describes the public improvement, describes the boundaries of the infrastructure improvement area, and identifies the location and times where the ordinance and other public information concerning the public improvement may be inspected; and

(2) Deliver a certified copy of the ordinance to the county treasurer and the governing body of each participating taxing authority within which the infrastructure improvement area is located.

PART II
LOCAL INFRASTRUCTURE IMPROVEMENT FINANCING--
SALES AND USE TAX REVENUE

NEW SECTION. **Sec. 201.** A new section is added to chapter 82.14 RCW to read as follows:

(1) A city, town, or county that creates an infrastructure improvement area and finances public improvements pursuant to chapter 82.-- RCW (the new chapter created in section 404 of this act) may impose a sales and use tax in accordance with the terms of this chapter and subject to the criteria set forth in this section. Except as provided in this section, the tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the city, town, or county. The rate of tax shall be calculated as provided in subsection (6) of this section, but shall not exceed the rate provided in RCW 82.08.020(1) in the case of a sales tax or the rate provided in RCW 82.12.020(5) in the case of a use tax, less the aggregate rates of any other taxes imposed on the same events that are credited against the state taxes imposed under chapters 82.08 and 82.12 RCW.

(2) The tax imposed under subsection (1) of this section shall be credited against the amount of tax otherwise required to be deposited in the general fund under chapter 82.08 or 82.12 RCW. The department shall perform the collection of such taxes on behalf of the city, town, or county at no cost to the city, town, or county.

(3) No tax may be imposed under this section before July 1, 2008. The tax imposed under this section shall expire when the bonds issued under the authority of chapter 82.-- RCW (the new chapter created in section 404 of this act) are retired, but not more than twenty-five years after the tax is first imposed.

(4) An ordinance adopted by the legislative authority of a city, town, or county imposing a tax under this section shall provide that:

(a) The tax shall first be imposed on the first day of a fiscal year.

(b) The amount of tax received by the local government in any fiscal year shall not exceed the amount of the state contribution.

(5) If both a county and a city or town impose a tax under this section, the tax imposed by the city, town, or county shall be credited as follows:

(a) If the county has created an infrastructure improvement area before the city or town, the tax imposed by the county shall be credited against the tax imposed by the city or town, the purpose of such credit is to give priority to the county tax; and

(b) If the city or town has created an infrastructure improvement area before the county, the tax imposed by the city or town shall be credited against the tax imposed by the county, the purpose of such credit is to give priority to the city or town tax.

(6) The rate of tax shall be calculated to equal the excess state excise taxes in the infrastructure improvement area, except that the rate shall be an amount that will not exceed one million five hundred dollars per fiscal year. If the rate of tax produces an amount that is in excess of one million five hundred thousand dollars per fiscal year, the following year's tax rate shall be adjusted downward, and the amount over one million five hundred thousand dollars shall be a debt from the local government to the state until paid to the state.

(7) The definitions in section 102 of this act and in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "State contribution" means the lesser of one million five hundred thousand dollars or excess state excise taxes received by the state during the preceding calendar year.

(b) "Tax allocation revenues" has the same meaning as in section 102 of this act.

NEW SECTION. **Sec. 202.** A new section is added to chapter 82.14 RCW to read as follows:

(1) Moneys collected from the taxes imposed under section 201 of this act shall be used only for the purpose of principal and interest payments on bonds issued under the authority of section 301 of this act and must be matched, dollar for dollar, with an amount from local public sources dedicated through December 31st of the previous calendar year to finance public improvements authorized under chapter 82.-- RCW (the new chapter created in section 404 of this act). Such local public sources include, but are not limited to, private monetary contributions and tax revenues other than the taxes imposed under section 201 of this act. Local public sources are dedicated to finance public improvements if they are actually expended to pay public improvement costs or are required by law or an agreement to be used exclusively to pay public improvement costs.

(2) A local government shall inform the department by the first day of March of the amount of local public sources dedicated in the preceding calendar year to finance public improvements authorized under chapter 82.-- RCW (the new chapter created in section 404 of this act).

(3) If a local government fails to comply with subsection (2) of this section, no tax may be imposed under section 201 of this act in the subsequent fiscal year.

(4) A local government shall provide a report to the department by March 1st of each year. The report shall contain the following information:

(a) The amount of tax allocation revenues, taxes under section 201 of this act, and local public sources received by the local government during the preceding calendar year, and a summary of how these revenues were expended;

(b) The names of any businesses locating within the infrastructure improvement area as a result of the public improvements undertaken by the local government and financed in whole or in part with local infrastructure improvement financing;

(c) The total number of permanent jobs created as a result of the public improvements undertaken by the local government and financed in whole or in part with local infrastructure improvement financing;

(d) The average wages and benefits received by all employees of businesses locating within the infrastructure improvement area as a result of the public improvements undertaken by the local government and financed in whole or in part with local infrastructure improvement financing; and

(e) That the local government is in compliance with section 103(6)(c) of this act.

(5) The department shall make a report available to the public and the legislature by June 1st of each year. The report shall include a list of public improvements undertaken by local governments and financed in whole or in part with local infrastructure improvement financing, and it shall also include a summary of the information provided to the department by local governments under subsection (4) of this section.

(6) The definitions in section 102 of this act apply to this section.

NEW SECTION. **Sec. 203.** A new section is added to chapter 82.32 RCW to read as follows:

(1) As a condition to imposing a sales and use tax under section 201 of this act, a city, town, or county must apply to the department at least seventy-five days before the effective date of any such tax. The application shall be in a form and manner prescribed by the department and shall include but is not limited to information establishing that the applicant is eligible to impose such a tax, the anticipated effective date for imposing the tax, the estimated number of years that the tax will be imposed, and the estimated amount of tax revenue to be received in each fiscal year that the tax will be imposed. For purposes of this section, "fiscal year" means the year beginning July 1st and ending the following June 30th. The department shall make available forms to be used for this purpose. As part of the application, a city, town, or county must provide to the department a copy of the ordinance creating the infrastructure improvement area as required in section 103 of this act. The department shall rule on completed applications within sixty days of receipt. The department may begin accepting and approving applications August 1, 2006. No new applications shall be considered by the department after the thirtieth day of September of the third year following the year in which the first application was received by the department.

(2) The authority to impose the local option sales and use taxes under section 201 of this act is on a first-come basis. Priority for collecting the taxes authorized under section 201 of this act among approved applicants shall be based on the date that the approved application was received by the department. As a part of the approval of applications under this section, the department shall approve the amount of tax under section 201 of this act that an applicant may impose. The amount of tax approved by the department shall not exceed the average amount of tax revenue that the applicant estimates that it will receive in all fiscal years through the imposition of a sales and use tax under section 201 of this act up to a maximum of one million five hundred dollars. A city, town, or county shall not receive, in any fiscal year, more revenues from taxes imposed under section 201 of this act than the amount approved by the department. The department shall not approve the receipt of more credit against the state sales and use tax than is authorized under subsection (3) of this section.

(3) The amount of credit against the state sales and use tax is limited to no more than five million dollars of credit against the state sales and use tax received by all cities, towns, and counties imposing a tax under section 201 of this act. This amount shall be adjusted annually, beginning in the fiscal year beginning July 1, 2008, by an amount representing the fiscal growth factor as defined in RCW 43.135.025.

(4) The credit against the state sales and use tax shall be available to any city, town, or county imposing a tax under section 201 of this act only as long as the city, town, or county has outstanding indebtedness under RCW 39.89.080.

(5) The department may adopt rules under chapter 34.05 RCW necessary for the administration of sections 201 through 204 of this act.

NEW SECTION. **Sec. 204.** (1) A local government that creates an infrastructure improvement area and has received approval from the department under section 203 of this act to impose the local option sales and use tax authorized in section 201 of this act may use annually any excess excise taxes received by it from taxable activity within the infrastructure improvement area to finance public improvement costs associated with the public improvements financed in whole or in part by local infrastructure improvement financing. The use of excess excise taxes must cease when tax allocation revenues are no longer necessary or obligated to pay the costs of the public improvements.

(2) A local government consisting solely of a port district may use excess excise taxes as provided in this section only to the extent that any participating taxing authority allocates excess excise taxes to the local government.

(3) A local government shall provide the department accurate information describing the geographical boundaries of the infrastructure improvement area at least seventy-five days before the effective date of the ordinance creating the infrastructure improvement area. The local government shall ensure that the boundary information provided to the department is kept current.

(4) The department shall provide each local government that has provided boundary information to the department as provided in this section and that has received approval from the department under section 203 of this act to impose the local option sales and use tax authorized in section 201 of this act with the necessary information to calculate excess excise taxes.

PART III
BOND AUTHORIZATION

NEW SECTION. **Sec. 301.** (1) A local government designating an infrastructure improvement area and authorizing the use of local infrastructure improvement financing may incur general indebtedness, and issue general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from tax allocation revenues and from the sales and use tax authorized in section 201 of this act it receives, subject to the following requirements:

(a) The ordinance adopted by the local government creating the infrastructure improvement area and authorizing the use of local infrastructure improvement financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(b) The local government includes this statement of the intent in all notices required by section 104 of this act.

(2) The general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local government for payment of costs of the public improvements or associated debt service on the general indebtedness.

(3) In addition to the requirements in subsection (1) of this section, a local government designating an infrastructure improvement area and authorizing the use of local infrastructure improvement financing may require the nonpublic participant to provide adequate security to protect the public investment in the public improvement within the infrastructure improvement area.

(4) Bonds issued under this section shall be authorized by ordinance of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered as provided in RCW 39.46.030, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption with or without premium, be secured in such manner, and have such other characteristics, as may be provided by such ordinance or trust indenture or mortgage issued pursuant thereto.

(5) The local government may annually pay into a fund to be established for the benefit of bonds issued under this section a fixed proportion or a fixed amount of any tax allocation revenues derived from property or business activity within the infrastructure improvement area containing the public improvements funded by the bonds, such payment to continue until all bonds payable from the fund are paid in full. The local government may also annually pay into the fund established in this section a fixed proportion or a fixed amount of any

revenues derived from taxes imposed under section 201 of this act, such payment to continue until all bonds payable from the fund are paid in full. Revenues derived from taxes imposed under section 201 of this act are subject to the use restriction in section 202 of this act.

(6) In case any of the public officials of the local government whose signatures appear on any bonds or any coupons issued under this chapter shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued under this chapter are fully negotiable.

(7) Notwithstanding subsections (4) through (6) of this section, bonds issued under this section may be issued and sold in accordance with chapter 39.46 RCW.

NEW SECTION. **Sec. 302.** A local government that issues bonds under section 301 of this act to finance public improvements may pledge for the payment of such bonds all or part of any tax allocation revenues derived from the public improvements. All of such tax revenues are subject to the use restriction in section 202 of this act.

NEW SECTION. **Sec. 303.** The bonds issued by a local government under section 301 of this act to finance public improvements shall not constitute an obligation of the state of Washington, either general or special.

PART IV
MISCELLANEOUS

NEW SECTION. **Sec. 401.** 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. 402.** Part headings used in this act do not constitute any part of the law.

NEW SECTION. **Sec. 403.** Nothing in this act shall be construed to give port districts the authority to impose a sales or use tax under chapter 82.14 RCW.

NEW SECTION. **Sec. 404.** Sections 101 through 105, 204, 301 through 303, and 403 of this act constitute a new chapter in Title 82 RCW."

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "adding new sections to chapter 82.14 RCW; adding a new section to chapter 82.32 RCW; adding a new chapter to Title 82 RCW; and creating a new section."

The President Pro Tempore declared the question before the Senate to be the motion by Senator Brown to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 2673.

The motion by Senator Brown carried and the committee striking amendment was not adopted by voice vote.

MOTION

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

Strike everything after the enacting clause and insert the following:

"PART I
INTENT AND DEFINITIONS

NEW SECTION. **Sec. 101.** INTENT. The legislature recognizes that the state as a whole benefits from investment in public infrastructure because it promotes community and economic development. Public investment stimulates business activity and helps create jobs; stimulates the redevelopment of brownfields and blighted areas in the inner city; lowers the cost of housing; and promotes efficient land use. The legislature finds that these activities generate revenue for the state and that it is in the public interest to invest in these projects through a credit against the state sales and use tax and an allocation of property tax revenue to those sponsoring local governments that can demonstrate the expected returns to the state.

NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Annual state contribution limit" means five million dollars statewide per fiscal year.

(2) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(3) "Base year" means the first calendar year following the creation of a revenue development area. For a local government that meets the requirements of section 202(2) of this act, "base year" is the calendar year in which it amends its ordinance as provided in section 202(2) of this act.

(4) "Board" means the community economic revitalization board under chapter 43.160 RCW.

(5) "Demonstration project" means one of the following projects:

(a) Bellingham waterfront redevelopment project;

(b) Spokane river district project at Liberty Lake; and

(c) Vancouver riverwest project.

(6) "Department" means the department of revenue.

(7) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

(8) "Local excise taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030 at the tax rate that was in effect at the time the revenue development area was created, except that if a local government reduces the rate of such tax after the revenue development area was created, "local excise taxes" means the local revenues derived from the imposition of the sales and use taxes authorized in RCW 82.14.030 at the lower tax rate.

(9) "Local excise tax allocation revenue" means the amount of local excise taxes received by the local government during the measurement year from taxable activity within the revenue development area over and above the amount of local excise taxes received by the local government during the base year from taxable activity within the revenue development area, except that:

(a) If a sponsoring local government creates a revenue development area and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred in the twelve months immediately preceding the creation of the revenue development area within the boundaries of the area that became the revenue development area, "local excise tax allocation revenue" means the entire amount of local excise taxes received by the sponsoring local government during a calendar year period beginning with the calendar year immediately following the creation of the revenue development area and continuing with each measurement year thereafter; and

(b) For revenue development areas created in calendar year 2006 that do not meet the requirements in (a) of this subsection and if legislation is enacted in this state by July 1, 2006, that adopts the sourcing provisions of the streamlined sales and use tax agreement, "local excise tax allocation revenue" means the amount of local excise taxes received by the sponsoring local government during the measurement year from taxable activity within the revenue development area over and above an amount of local excise taxes received by the sponsoring local government during the 2007 base year adjusted by the department for any estimated impacts from retail sales and use tax sourcing changes effective July 1, 2007. The amount of base year adjustment determined by the department is final.

(10) "Local government" means any city, town, county, port district, and any federally recognized Indian tribe.

(11) "Local infrastructure financing" means the use of revenues received from local excise tax allocation revenues, local property tax allocation revenues, dedicated revenues from

local public sources, and revenues received from the local option sales and use tax authorized in section 401 of this act to pay the principal and interest on bonds authorized under section 501 of this act.

(12) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local infrastructure financing.

(13) "Revenues from local public sources" means federal and private monetary contributions, amounts of local excise tax allocation revenues, and amounts of local property tax allocation revenues dedicated by participating taxing districts and participating local governments for local infrastructure financing.

(14) "Low-income housing" means residential housing for low-income persons or families who lack the means which is necessary to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding. For the purposes of this subsection, "low income" means income that does not exceed eighty percent of the median family income for the standard metropolitan statistical area in which the revenue development area is located.

(15) "Measurement year" means a calendar year, beginning with the calendar year following the base year and each calendar year thereafter, that is used annually to measure state and local excise tax allocation revenues.

(16) "Ordinance" means any appropriate method of taking legislative action by a local government.

(17) "Participating local government" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in section 206 of this act to allow the use of all or some of its local excise tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(18) "Participating taxing district" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in section 206 of this act to allow the use of some or all of its local property tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(19)(a) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revenue development area resulting from the placement of new construction, improvements, or both to property on the assessment rolls after the revenue development area is created, where the new construction or improvements occur entirely after the revenue development area is created.

(b) If any new construction added to the assessment rolls consists of entire buildings, "property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of the buildings in the years following their initial placement on the assessment rolls.

(c) "Property tax allocation revenue value" does not include any increase in the assessed value of improvements to property or new construction that do not consist of an entire building, occurring after their initial placement on the assessment rolls.

(d) There is no property tax allocation revenue value if the assessed value of real property in a revenue development area has not increased due to new construction or improvements to property occurring after the revenue development area is created.

(20) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revenue development area.

(21) "Public improvements" means:

(a) Infrastructure improvements within the revenue development area that include:

(i) Street, bridge, and road construction and maintenance, including highway interchange construction;

(ii) Water and sewer system construction and improvements, including wastewater reuse facilities;

(iii) Sidewalks, traffic controls, and streetlights;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities and recreational areas, including trails; and

(vii) Storm water and drainage management systems;

(b) Expenditures for facilities and improvements that support affordable housing as defined in RCW 43.63A.510.

(22) "Public improvement costs" means the cost of: (a) Design, planning, acquisition including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) demolishing, relocating, maintaining, and operating property pending construction of public improvements; (c) the local government's portion of relocating utilities as a result of public improvements; (d) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; (e) assessments incurred in revaluing real property for the purpose of determining the property tax allocation revenue base value that are in excess of costs incurred by the assessor in accordance with the revaluation plan under chapter 84.41 RCW, and the costs of apportioning the taxes and complying with this chapter and other applicable law; and (f) administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of local infrastructure financing to fund the costs of the public improvements.

(23) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (a) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; (b) regular property taxes levied by the state for the support of the common schools under RCW 84.52.065; and (c) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose. "Regular property taxes" do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(24) "Property tax allocation revenue base value" means the assessed value of real property located within a revenue development area for taxes levied in the year in which the revenue development area is created for collection in the following year, plus one hundred percent of any increase in the assessed value of real property located within a revenue development area that is placed on the assessment rolls after the revenue development area is created, less the property tax allocation revenue value.

(25) "Relocating a business" means the closing of a business and the reopening of that business, or the opening of a new business that engages in the same activities as the previous business, in a different location within a one-year period, when an individual or entity has an ownership interest in the business at the time of closure and at the time of opening or reopening. "Relocating a business" does not include the closing and reopening of a business in a new location where the business has been acquired and is under entirely new ownership at the new location, or the closing and reopening of a business in a new location as a result of the exercise of the power of eminent domain.

(26) "Revenue development area" means the geographic area created by a sponsoring local government from which local

excise and property tax allocation revenues are derived for local infrastructure financing.

(27) "Small business" has the same meaning as provided in RCW 19.85.020.

(28) "Sponsoring local government" means a city, town, or county, and for the purpose of this chapter a federally recognized Indian tribe or any combination thereof, that creates a revenue development area and applies to the board to use local infrastructure financing.

(29) "State contribution" means the lesser of:

(a) One million dollars;

(b) The state excise tax allocation revenue and state property tax allocation revenue received by the state during the preceding calendar year;

(c) The amount of local excise tax allocation revenues, local property tax allocation revenues, and revenues from local public sources, that are dedicated by a sponsoring local government in the preceding calendar year to the payment of principal and interest on bonds issued under section 501 of this act; or

(d) The amount of project award granted by the board in the notice of approval to use local infrastructure financing under section 202 of this act.

(30) "State excise taxes" means revenues derived from state retail sales and use taxes under chapters 82.08 and 82.12 RCW, less the amount of tax distributions from all local retail sales and use taxes imposed on the same taxable events that are credited against the state retail sales and use taxes under chapters 82.08 and 82.12 RCW.

(31) "State excise tax allocation revenue" means the amount of state excise taxes received by the state during the measurement year from taxable activity within the revenue development area over and above the amount of state excise taxes received by the state during the base year from taxable activity within the revenue development area, except that:

(a) If a sponsoring local government creates a revenue development area and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred in the twelve months immediately preceding the creation of the revenue development area within the boundaries of the area that became the revenue development area, "state excise tax allocation revenue" means the entire amount of state excise taxes received by the state during a calendar year period beginning with the calendar year immediately following the creation of the revenue development area and continuing with each measurement year thereafter; and

(b) For revenue development areas created in calendar year 2006 that do not meet the requirements in (a) of this subsection and if legislation is enacted in this state by July 1, 2006, that adopts the sourcing provisions of the streamlined sales and use tax agreement, "state excise tax allocation revenue" means the amount of state excise taxes received by the state during the measurement year from taxable activity within the revenue development area over and above an amount of state excise taxes received by the state during the 2007 base year adjusted by the department for any estimated impacts from retail sales and use tax sourcing changes effective July 1, 2007. The amount of base year adjustment determined by the department is final.

(32) "State property tax allocation revenue" means those tax revenues derived from the imposition of property taxes levied by the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value.

PART II
LOCAL INFRASTRUCTURE FINANCING TOOL

NEW SECTION. **Sec. 201.** CREATION OF THE LOCAL INFRASTRUCTURE FINANCING TOOL PROGRAM. The local infrastructure financing tool program is created to assist local governments in financing authorized public infrastructure projects designed to promote economic development in the jurisdiction. The local infrastructure financing tool program is not created to enable existing Washington-based businesses from outside a revenue development area to relocate into a revenue development area.

NEW SECTION. **Sec. 202.** LOCAL INFRASTRUCTURE FINANCING TOOL PROGRAM APPLICATION. (1) Prior to applying to the board to use local infrastructure financing, a sponsoring local government shall:

(a) Designate a revenue development area within the limitations in section 204 of this act;

(b) Certify that the conditions in section 205 of this act are met;

(c) Complete the process in section 206 of this act;

(d) Provide public notice as required in section 208 of this act; and

(e) Pass an ordinance adopting the revenue development area as required in section 207 of this act.

(2) Any local government that has created an increment area under chapter 39.89 RCW that has not issued bonds to finance any public improvement shall be considered a revenue development area under this chapter without creating a new increment area under sections 207 and 208 of this act if it amends its ordinance to comply with section 207(1) of this act and otherwise meets the conditions and limitations under this chapter.

(3) As a condition to imposing a sales and use tax under section 401 of this act, a sponsoring local government, including any cosponsoring local government seeking authority to impose a sales and use tax under section 401 of this act, must apply to the board and be approved for a project award amount. The application shall be in a form and manner prescribed by the board and include but not be limited to information establishing that the applicant is an eligible candidate to impose the local sales and use tax under section 401 of this act, the anticipated effective date for imposing the tax, the estimated number of years that the tax will be imposed, and the estimated amount of tax revenue to be received in each fiscal year that the tax will be imposed. The board shall make available forms to be used for this purpose. As part of the application, each applicant must provide to the board a copy of the ordinance or ordinances creating the revenue development area as required in section 207 of this act. A notice of approval to use local infrastructure financing shall contain a project award that represents the maximum amount of state contribution that the applicant, including any cosponsoring local governments, can earn each year that local infrastructure financing is used. The total of all project awards shall not exceed the annual state contribution limit. The determination of a project award shall be made based on information contained in the application and the remaining amount of annual state contribution limit to be awarded. Determination of a project award by the board is final.

(4) Sponsoring local governments, and any cosponsoring local governments, must submit completed applications to the board no later than July 1, 2007. By September 15, 2007, in consultation with the department of revenue and the department of community, trade, and economic development, the board shall approve qualified projects, up to the annual state contribution limit. Except as provided in section 203 of this act, approvals shall be based on the following criteria:

(a) The project potential to enhance the sponsoring local government's regional and/or international competitiveness;

(b) The project's ability to encourage mixed use development and the redevelopment of a geographic area;

(c) Achieving an overall distribution of projects statewide that reflect geographic diversity;

(d) The estimated wages and benefits for the project is greater than the average labor market area;

(e) The estimated state and local net employment change over the life of the project;

(f) The estimated state and local net property tax change over the life of the project; and

(g) The estimated state and local sales and use tax increase over the life of the project.

(5) A revenue development area is considered created when the sponsoring local government, including any cosponsoring local government, has adopted an ordinance creating the revenue development area and the board has approved the sponsoring local government to use local infrastructure financing. If a sponsoring local government receives approval from the board after the fifteenth day of October to use local infrastructure financing, the revenue development area is considered created in the calendar year following the approval. Once the board has approved the sponsoring local government, and any cosponsoring local governments, to use local infrastructure financing, notification shall be sent to the sponsoring local government, and any cosponsoring local governments, authorizing the sponsoring local government, and any cosponsoring local governments, to impose the local sales and use tax authorized under section 401 of this act, subject to the conditions in section 401 of this act.

NEW SECTION. **Sec. 203.** In addition to a competitive process, demonstration projects are provided to determine the feasibility of the local infrastructure financing tool. Notwithstanding section 202 of this act, the board shall approve each demonstration project before approving any other application. The Bellingham waterfront redevelopment project award shall not exceed one million dollars per year, the Spokane river district project award shall not exceed one million dollars per year, and the Vancouver riverwest project award shall not exceed five hundred thousand dollars per year.

NEW SECTION. **Sec. 204.** LIMITATIONS ON REVENUE DEVELOPMENT AREAS. The designation of a revenue development area is subject to the following limitations:

(1) The taxable real property within the revenue development area boundaries may not exceed one billion dollars in assessed value at the time the revenue development area is designated;

(2) The average assessed value per square foot of taxable land within the revenue development area boundaries may not exceed seventy dollars at the time the revenue development area is designated;

(3) No more than one revenue development area may be created in a county;

(4) A revenue development area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the revenue development area;

(5) The boundaries may not be drawn to purposely exclude parcels where economic growth is unlikely to occur;

(6) The public improvements financed through local infrastructure financing must be located in the revenue development area;

(7) A revenue development area cannot comprise an area containing more than twenty-five percent of the total assessed value of the taxable real property within the boundaries of the sponsoring local government, including any cosponsoring local government, at the time the revenue development area is designated;

(8) The boundaries of the revenue development area shall not be changed for the time period that local infrastructure financing is used; and

(9) A revenue development area cannot include any part of an increment area created under chapter 39.89 RCW, except those increment areas created prior to January 1, 2006.

NEW SECTION. **Sec. 205.** CONDITIONS. The use of local infrastructure financing under this chapter is subject to the following conditions:

(1) No funds may be used to finance, design, acquire, construct, equip, operate, maintain, remodel, repair, or reequip public facilities funded with taxes collected under RCW 82.14.048;

(2)(a) Except as provided in (b) of this subsection no funds may be used for public improvements other than projects identified within the capital facilities, utilities, housing, or transportation element of a comprehensive plan required under chapter 36.70A RCW;

(b) Funds may be used for public improvements that are historical preservation activities as defined in RCW 39.89.020;

(3) The public improvements proposed to be financed in whole or in part using local infrastructure financing are expected to encourage private development within the revenue development area and to increase the fair market value of real property within the revenue development area;

(4) A sponsoring local government, participating local government, or participating taxing district has entered or expects to enter into a contract with a private developer relating to the development of private improvements within the revenue development area or has received a letter of intent from a private developer relating to the developer's plans for the development of private improvements within the revenue development area;

(5) Private development that is anticipated to occur within the revenue development area, as a result of the public improvements, will be consistent with the countywide planning policy adopted by the county under RCW 36.70A.210 and the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW;

(6) The governing body of the sponsoring local government, and any cosponsoring local government, must make a finding that local infrastructure financing:

(a) Is not expected to be used for the purpose of relocating a business from outside the revenue development area, but within this state, into the revenue development area; and

(b) Will improve the viability of existing business entities within the revenue development area;

(7) The governing body of the sponsoring local government, and any cosponsoring local government, finds that the public improvements proposed to be financed in whole or in part using local infrastructure financing are reasonably likely to:

(a) Increase private residential and commercial investment within the revenue development area;

(b) Increase employment within the revenue development area;

(c) Improve the viability of any existing communities that are based on mixed-use development within the revenue development area; and

(d) Generate, over the period of time that the local option sales and use tax will be imposed under section 401 of this act, state excise tax allocation revenues and state property tax allocation revenues derived from the revenue development area that are equal to or greater than the respective state contributions made under this chapter;

(8) The sponsoring local government may only use local infrastructure financing in areas deemed in need of economic development or redevelopment within boundaries of the sponsoring local government.

NEW SECTION. **Sec. 206.** PROCESS. Before adopting an ordinance creating the revenue development area, a sponsoring local government must:

(1) Obtain written agreement from any participating local government and participating taxing district to use dedicated amounts of local excise tax allocation revenues, local property tax allocation revenues, and other revenues from local public sources in whole or in part, for local infrastructure financing authorized under this chapter. The agreement to opt into the local infrastructure financing public improvement project must be authorized by the governing body of such participating local government and participating taxing district;

(2) Estimate the impact of the revenue development area on small business and low-income housing and develop a mitigation plan for the impacted businesses and housing. In analyzing the impact of the revenue development area, the sponsoring local government must develop:

(a) An inventory of existing low-income housing units, and businesses and retail activity within the revenue development area;

(b) A reasonable estimate of the number of low-income housing units, small businesses, and other commercial activity that may be vulnerable to displacement within the revenue development area;

(c) A reasonable estimate of projected net job growth and net housing growth caused by creation of the revenue development area when compared to the existing jobs or housing balance for the area; and

(d) A reasonable estimate of the impact of net housing growth on the current housing price mix.

NEW SECTION. **Sec. 207.** ORDINANCE. (1) To create a revenue development area, a sponsoring local government, and any cosponsoring local government, must adopt an ordinance establishing the revenue development area that:

(a) Describes the public improvements proposed to be made in the revenue development area;

(b) Describes the boundaries of the revenue development area, subject to the limitations in section 204 of this act;

(c) Estimates the cost of the proposed public improvements and the portion of these costs to be financed by local infrastructure financing;

(d) Estimates the time during which local excise tax allocation revenues, local property tax allocation revenues, and other revenues from local public sources are to be used for local infrastructure financing;

(e) Provides the date when the use of local excise tax allocation revenues and local property tax allocation revenues will commence; and

(f) Finds that the conditions in section 205 of this act are met and the findings in section 206 of this act are complete.

(2) The sponsoring local government, and any cosponsoring local government, must hold a public hearing on the proposed financing of the public improvements in whole or in part with local infrastructure financing at least thirty days before passage of the ordinance establishing the revenue development area. The public hearing may be held by either the governing body of the sponsoring local government and the governing body of any cosponsoring local government, or by a committee of those governing bodies that includes at least a majority of the whole governing body or bodies. The public hearing is subject to the notice requirements in section 208 of this act.

(3) The sponsoring local government, and any cosponsoring local government, shall deliver a certified copy of the adopted ordinance to the county treasurer, the governing body of each participating local government and participating taxing district within which the revenue development area is located, the board, and the department.

NEW SECTION. **Sec. 208.** NOTICE REQUIREMENTS. Prior to adopting the ordinance creating the revenue development area and to meet the requirements of section 501(1)(b) of this act, a sponsoring local government and any cosponsoring local government must provide public notice.

(1) Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed revenue development area at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed revenue development area.

(2) Notice must also be sent by United States mail to the property owners, all identifiable community-based organizations with involvement in the proposed revenue development area, and the business enterprises located within the proposed revenue development area at least thirty days prior to the hearing. In implementing provisions under this chapter, the local governing body may also consult with community-based groups, business organizations, including the local chamber of commerce, and the office of minority and women's business enterprises to assist with providing appropriate notice to business enterprises and property owners for whom English is a second language.

(3) Notices must describe the contemplated public improvements, estimate the public improvement costs, describe the portion of the public improvement costs to be borne by local infrastructure financing, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed revenue development area, estimate the impact that the public improvements will have on small businesses and low-income housing, and estimate the period during which local infrastructure financing is contemplated to be used.

(4) Notices must inform the public where to obtain the information that shows how the limitations, conditions, and findings required in sections 204 through 206 of this act are met.

(5) The sponsoring local government and any cosponsoring local government shall deliver a certified copy of the proposed ordinance to the county treasurer, the governing body of each participating local government and participating taxing district within which the revenue development area is located, the board, and the department.

PART III
TAX ALLOCATION REVENUES

NEW SECTION. **Sec. 301.** LOCAL EXCISE TAX ALLOCATION REVENUES. (1) A sponsoring local government or participating local government that has received approval by the board to use local infrastructure financing may use annually its local excise tax allocation revenues to finance public improvements in the revenue development area financed in whole or in part by local infrastructure financing. The use of local excise tax allocation revenues dedicated by participating local governments must cease when such allocation revenues are no longer necessary or obligated to pay bonds issued to finance the public improvements in the revenue development area. Any participating local government is authorized to dedicate local excise tax allocation revenues to the sponsoring local government as authorized in section 206(1) of this act.

(2) A sponsoring local government shall provide the board accurate information describing the geographical boundaries of the revenue development area at the time of application. The information shall be provided in an electronic format or manner as prescribed by the department. The sponsoring local government shall ensure that the boundary information provided to the board and department is kept current.

(3) In the event a city annexes a county area located within a county-sponsored revenue development area, the city shall remit to the county the portion of the local excise tax allocation revenue that the county would have received had the area not been annexed to the county. The city shall remit such revenues until such time as the bonds issued under section 501 of this act are retired.

NEW SECTION. **Sec. 302.** LOCAL PROPERTY TAX ALLOCATION REVENUES. (1) Commencing in the second calendar year following the passage of the ordinance creating a revenue development area and authorizing the use of local infrastructure financing, the county treasurer shall distribute receipts from regular taxes imposed on real property located in the revenue development area as follows:

(a) Each participating taxing district and the sponsoring local government shall receive that portion of its regular property taxes produced by the rate of tax levied by or for the taxing district on the property tax allocation revenue base value for that local infrastructure financing project in the taxing district, or upon the total assessed value of real property in the taxing district, whichever is smaller; and

(b) The sponsoring local government shall receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the property tax allocation revenue value within the revenue development area. However, if there is no property tax allocation revenue value, the sponsoring local government shall not receive any additional

regular property taxes under this subsection (1)(b). The sponsoring local government may agree to receive less than the full amount of the additional portion of regular property taxes under this subsection (1)(b) as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts shall be allocated to the participating taxing districts that levied regular property taxes, or have regular property taxes levied for them, in the revenue development area for collection that year in proportion to their regular tax levy rates for collection that year. The sponsoring local government may request that the treasurer transfer this additional portion of the property taxes to its designated agent. The portion of the tax receipts distributed to the sponsoring local government or its agent under this subsection (1)(b) may only be expended to finance public improvement costs associated with the public improvements financed in whole or in part by local infrastructure financing.

(2) The county assessor shall allocate any increase in the assessed value of real property occurring in the revenue development area to the property tax allocation revenue value and property tax allocation revenue base value as appropriate. This section does not authorize revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW or under other authorized revaluation procedures.

(3) The apportionment of increases in assessed valuation in a revenue development area, and the associated distribution to the sponsoring local government of receipts from regular property taxes that are imposed on the property tax allocation revenue value, must cease when property tax allocation revenues are no longer necessary or obligated to pay the costs of the public improvements. Any excess local property tax allocation revenues derived from regular property taxes and earnings on these tax allocation revenues, remaining at the time the allocation of tax receipts terminates, must be returned to the county treasurer and distributed to the participating taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the revenue development area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

(4) The allocation to the revenue development area of portions of the local regular property taxes levied by or for each taxing district upon the property tax allocation revenue value within that revenue development area is declared to be a public purpose of and benefit to each such taxing district.

(5) The allocation of local property tax allocation revenues pursuant to this section shall not affect or be deemed to affect the rate of taxes levied by or within any taxing district or the consistency of any such levies with the uniformity requirement of Article VII, section 1 of the state Constitution.

(6) This section does not apply to those revenue development areas that include any part of an increment area created under chapter 39.89 RCW.

PART IV
STATE CONTRIBUTIONS

NEW SECTION. **Sec. 401.** A new section is added to chapter 82.14 RCW to read as follows:

SALES AND USE TAX. (1) A sponsoring local government, and any cosponsoring local government, that has been approved by the board to use local infrastructure financing may impose a sales and use tax in accordance with the terms of this chapter and subject to the criteria set forth in this section. Except as provided in this section, the tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the sponsoring local government or cosponsoring local government. The rate of tax shall not exceed the rate provided in RCW 82.08.020(1), less the aggregate rates of any other local sales and use taxes imposed on the same taxable events that are credited against the state sales and use taxes imposed under chapters 82.08 and 82.12 RCW. The rate of tax may be changed only on the first day of a fiscal year as needed. Notice of rate changes must be provided to the department on the first day of March to be effective on July 1st of the next fiscal year.

(2) The tax authorized under subsection (1) of this section shall be credited against the state taxes imposed under chapter 82.08 or 82.12 RCW. The department shall perform the collection of such taxes on behalf of the sponsoring local government or cosponsoring local government at no cost to the sponsoring local government or cosponsoring local government and shall remit the taxes as provided in RCW 82.14.060.

(3)(a) No tax may be imposed under this section:

(i) Before July 1, 2008;

(ii) Before approval by the board under section 202 of this act; and

(iii) Except as provided in (b) of this subsection, unless the sponsoring local government has received and dedicated to the payment of bonds authorized in section 501 of this act, in whole or in part, both local excise tax allocation revenues and local property tax allocation revenues during the preceding calendar year.

(b) The requirement to receive local property tax allocation revenues under (a) of this subsection is waived if the revenue development area coincides with or is contained entirely within the boundaries of an increment area adopted by a local government under the authority of chapter 39.89 RCW for the purposes of utilizing community revitalization financing.

(c) The tax imposed under this section shall expire when the bonds issued under the authority of section 501 of this act are retired, but not more than twenty-five years after the tax is first imposed.

(4) An ordinance adopted by the legislative authority of a sponsoring local government or cosponsoring local government imposing a tax under this section shall provide that:

(a) The tax shall first be imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the sponsoring local government, and any cosponsoring local government, in any fiscal year shall not exceed the amount of the state contribution;

(c) The tax shall cease to be distributed for the remainder of any fiscal year in which either:

(i) The amount of tax received by the sponsoring local government, and any cosponsoring local government, equals the amount of the state contribution;

(ii) The amount of revenue from taxes imposed under this section by all sponsoring and cosponsoring local governments equals the annual state contribution limit; or

(iii) The amount of tax received by the sponsoring local government equals the amount of project award granted in the approval notice described in section 202 of this act;

(d) Except when the requirement to receive local property tax allocation revenues is waived as provided in subsection (3)(b) of this section, neither the local excise tax allocation revenues nor the local property tax allocation revenues can be more than eighty percent of the total local funds as described in section 102(29)(c) of this act;

(e) The tax shall be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(f) Any revenue generated by the tax in excess of the amounts specified in (c) of this subsection shall belong to the state of Washington.

(5) If a county and city cosponsor a revenue development area, the combined rates of the city and county tax shall not exceed the rate provided in RCW 82.08.020(1), less the aggregate rates of any other local sales and use taxes imposed

on the same taxable events that are credited against the state sales and use taxes imposed under chapters 82.08 and 82.12 RCW. The combined amount of distributions received by both the city and county may not exceed the state contribution.

(6) The department shall determine the amount of tax receipts distributed to each sponsoring local government, and any cosponsoring local government, imposing sales and use tax under this section and shall advise a sponsoring or cosponsoring local government when tax distributions for the fiscal year equal the amount of state contribution for that fiscal year as provided in subsection (8) of this section. Determinations by the department of the amount of tax distributions attributable to each sponsoring or cosponsoring local government are final and shall not be used to challenge the validity of any tax imposed under this section. The department shall remit any tax receipts in excess of the amounts specified in subsection (4)(c) of this section to the state treasurer who shall deposit the money in the general fund.

(7) If a sponsoring or cosponsoring local government fails to comply with section 403 of this act, no tax may be distributed in the subsequent fiscal year until such time as the sponsoring or cosponsoring local government complies and the department calculates the state contribution amount for such fiscal year.

(8) Each year, the amount of taxes approved by the department for distribution to a sponsoring or cosponsoring local government in the next fiscal year shall be equal to the state contribution and shall be no more than the total local funds as described in section 102(29)(c) of this act. The department shall consider information from reports described in section 403 of this act when determining the amount of state contributions for each fiscal year. A sponsoring or cosponsoring local government shall not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department. The department shall not approve the receipt of more distributions of sales and use tax under this section to a sponsoring or cosponsoring local government than is authorized under subsection (4) of this section.

(9) The amount of tax distributions received from taxes imposed under the authority of this section by all sponsoring and cosponsoring local governments is limited annually to not more than five million dollars. The tax distributions shall be available to the sponsoring local government, and any cosponsoring local government, imposing a tax under this section only as long as the sponsoring local government has outstanding indebtedness under section 501 of this act.

(10) The definitions in section 102 of this act apply to this section unless the context clearly requires otherwise.

(11) If a sponsoring local government is a federally recognized Indian tribe, the distribution of the sales and use tax authorized under this section shall be authorized through an interlocal agreement pursuant to chapter 39.34 RCW.

NEW SECTION. **Sec. 402.** USE OF FUNDS. Money collected from the taxes imposed under section 401 of this act shall be used only for the purpose of principal and interest payments on bonds issued under the authority of section 501 of this act.

NEW SECTION. **Sec. 403.** REPORTING REQUIREMENTS. (1) A sponsoring local government shall provide a report to the board and the department by March 1st of each year. The report shall contain the following information:

(a) The amount of local excise tax allocation revenues, and local property tax allocation revenues, taxes under section 401 of this act, and revenues from local public sources received by the sponsoring local government during the preceding calendar year that were dedicated to pay the public improvements financed in whole or in part with local infrastructure financing, and a summary of how these revenues were expended;

(b) The names of any businesses locating within the revenue development area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local infrastructure financing;

(c) The total number of permanent jobs created in the revenue development area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local infrastructure financing;

(d) The average wages and benefits received by all employees of businesses locating within the revenue development area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local infrastructure financing; and

(e) That the sponsoring local government is in compliance with section 205 of this act.

(2) The board shall make a report available to the public and the legislature by June 1st of each year. The report shall include a list of public improvements undertaken by sponsoring local governments and financed in whole or in part with local infrastructure financing and it shall also include a summary of the information provided to the department by sponsoring local governments under subsection (1) of this section.

PART V
BOND AUTHORIZATION

NEW SECTION. **Sec. 501.** BOND ISSUANCE. (1) A sponsoring local government that has designated a revenue development area and been authorized the use of local infrastructure financing may incur general indebtedness, and issue general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from tax allocation revenues it receives, subject to the following requirements:

(a) The ordinance adopted by the sponsoring local government and authorizing the use of local infrastructure financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(b) The sponsoring local government includes this statement of the intent in all notices required by section 207 of this act.

(2)(a) Except as provided in (b) of this subsection, the general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local government for payment of costs of the public improvements or associated debt service on the general indebtedness.

(b) A sponsoring local government that issues bonds under this section shall not pledge any money received from the state of Washington for the payment of such bonds, other than the local sales and use taxes imposed under the authority of section 401 of this act and collected by the department.

(3) In addition to the requirements in subsection (1) of this section, a sponsoring local government designating a revenue development area and authorizing the use of local infrastructure financing may require the nonpublic participant to provide adequate security to protect the public investment in the public improvement within the revenue development area.

(4) Bonds issued under this section shall be authorized by ordinance of the governing body of the sponsoring local government and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered as provided in RCW 39.46.030, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption with or without premium, be secured in such manner, and have such other characteristics, as may be provided

by such ordinance or trust indenture or mortgage issued pursuant thereto.

(5) The sponsoring local government may annually pay into a fund to be established for the benefit of bonds issued under this section a fixed proportion or a fixed amount of any local excise tax allocation revenues and local property tax allocation revenues derived from property or business activity within the revenue development area containing the public improvements funded by the bonds, such payment to continue until all bonds payable from the fund are paid in full. The local government may also annually pay into the fund established in this section a fixed proportion or a fixed amount of any revenues derived from taxes imposed under section 401 of this act, such payment to continue until all bonds payable from the fund are paid in full. Revenues derived from taxes imposed under section 401 of this act are subject to the use restriction in section 402 of this act.

(6) In case any of the public officials of the sponsoring local government whose signatures appear on any bonds or any coupons issued under this chapter shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued under this chapter are fully negotiable.

(7) Notwithstanding subsections (4) through (6) of this section, bonds issued under this section may be issued and sold in accordance with chapter 39.46 RCW.

NEW SECTION. **Sec. 502.** USE OF TAX REVENUE FOR BOND REPAYMENT. A sponsoring local government that issues bonds under section 501 of this act to finance public improvements may pledge for the payment of such bonds all or part of any local excise tax allocation revenues and all or part of any local property tax allocation revenues dedicated by the sponsoring local government, any participating local government, or participating taxing district. The sponsoring local government may also pledge all or part of any revenues derived from taxes imposed under section 401 of this act and held in connection with the public improvements. All of such tax revenues are subject to the use restrictions in sections 202 through 205 of this act, and the process requirements in section 206(1) of this act.

NEW SECTION. **Sec. 503.** BONDS ISSUED NOT AN OBLIGATION OF THE STATE OF WASHINGTON. The bonds issued by a sponsoring local government under section 501 of this act to finance public improvements shall not constitute an obligation of the state of Washington, either general or special.

NEW SECTION. **Sec. 504.** GENERAL INDEBTEDNESS--SECURITY. (1) A sponsoring local government designating a revenue development area and authorizing the use of local infrastructure financing may incur general indebtedness, and issue general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from local excise tax allocation revenues and local property tax allocation revenues it receives, subject to the following requirements:

(a) The ordinance adopted by the sponsoring local government creating the revenue development area and authorizing the use of local infrastructure financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(b) The sponsoring local government includes this statement of the intent in all notices required by sections 205 and 206 of this act.

(2) The general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the sponsoring local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the sponsoring local government for payment of costs of the public improvements or associated debt service on the general indebtedness.

(3) In addition to the requirements in subsection (1) of this section, a sponsoring local government designating a revenue development area and authorizing the use of local infrastructure financing may require the nonpublic participant to provide adequate security to protect the public investment in the public improvement within the revenue development area.

NEW SECTION. **Sec. 505.** REVENUE BONDS. (1) A sponsoring local government may issue revenue bonds to fund revenue-generating public improvements, or portions of public improvements, that are located within a revenue development area. Whenever revenue bonds are to be issued, the legislative authority of the sponsoring local government shall create or have created a special fund or funds from which, along with any reserves created pursuant to RCW 39.44.140, the principal and interest on these revenue bonds shall exclusively be payable. The legislative authority of the sponsoring local government may obligate the sponsoring local government to set aside and pay into the special fund or funds a fixed proportion or a fixed amount of the revenues from the public improvements that are funded by the revenue bonds. This amount or proportion is a lien and charge against these revenues, subject only to operating and maintenance expenses. The sponsoring local government shall have due regard for the cost of operation and maintenance of the public improvements that are funded by the revenue bonds, and shall not set aside into the special fund or funds a greater amount or proportion of the revenues that in its judgment will be available over and above the cost of maintenance and operation and the amount or proportion, if any, of the revenue previously pledged. The sponsoring local government may also provide that revenue bonds payable out of the same source or sources of revenue may later be issued on a parity with any revenue bonds being issued and sold.

(2) Revenue bonds issued pursuant to this section are not an indebtedness of the sponsoring local government issuing the bonds, and the interest and principal on the bonds shall only be payable from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created pursuant to RCW 39.44.140. The owner or bearer of a revenue bond or any interest coupon issued pursuant to this section shall not have any claim against the sponsoring local government arising from the bond or coupon except for payment from the revenues lawfully pledged to meet the principal and interest requirements and any reserves created pursuant to RCW 39.44.140. The substance of the limitations included in this subsection shall be plainly printed, written, or engraved on each bond issued pursuant to this section.

(3) Revenue bonds with a maturity in excess of twenty-five years shall not be issued. The legislative authority of the sponsoring local government shall by resolution determine for each revenue bond issue the amount, date, form, terms, conditions, denominations, maximum fixed or variable interest rate or rates, maturity or maturities, redemption rights, registration privileges, manner of execution, manner of sale, callable provisions, if any, and covenants including the refunding of existing revenue bonds. Facsimile signatures may be used on the bonds and any coupons. Refunding revenue bonds may be issued in the same manner as revenue bonds are issued.

(4) Notwithstanding subsections (1) through (3) of this section, bonds issued under this section may be issued and sold in accordance with chapter 39.46 RCW.

PART VI
JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE REPORTS

NEW SECTION. **Sec. 601.** JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE REPORTS. Beginning September 1, 2013, and continuing every five years thereafter,

the joint legislative audit and review committee shall submit a report to the appropriate committees of the legislature.

(1) The report shall, at a minimum, evaluate the effectiveness of the local infrastructure financing tool program, including a project-by-project review. The report shall evaluate the project's interim results based on the selection criteria. The report shall also measure:

(a) Employment changes in the revenue development area;

(b) Property tax changes in the revenue development area;

(c) Sales and use tax changes in the revenue development area;

(d) Property value changes in the revenue development area; and

(e) Changes in housing and existing commercial activities based on the impact analysis and mitigation plan required in section 206(2) of this act.

(2) The report that is due September 1, 2028, should also include any recommendations regarding whether or not the program should be expanded statewide and what impact the expansion would have on economic development in Washington.

PART VII
MISCELLANEOUS

NEW SECTION. **Sec. 701.** PERIODIC EVALUATION. The department of revenue and the community economic revitalization board shall evaluate and periodically report on the implementation of the local infrastructure financing program to the governor and legislature as the department and the board deems appropriate and recommend such amendments, changes in, and modifications of this act as seem proper.

NEW SECTION. **Sec. 702.** GOVERNANCE AND SELECTION CRITERIA STUDY. The office of financial management shall contract with the appropriate vendor to study and report on similar programs in other states. The report shall include an overview of the programs in other states, including project selection criteria and program governance. The report shall include recommendations regarding project selection and governance that address Washington's unique needs. The report shall also include recommendations for reporting information on future projects. The report is due to the governor and the legislature by December 1, 2006.

NEW SECTION. **Sec. 703.** CAPTIONS. Captions and part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 704.** SEVERABILITY. 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. 705.** PORT DISTRICTS. Nothing in this act shall be construed to give port districts the authority to impose a sales or use tax under chapter 82.14 RCW.

NEW SECTION. **Sec. 706.** EFFECTIVE DATE. This act takes effect July 1, 2006.

NEW SECTION. **Sec. 707.** EXPIRATION DATE. This act expires June 30, 2039.

NEW SECTION. **Sec. 708.** NEW CHAPTER. Sections 101 through 302 and 402 through 601 of this act constitute a new chapter in Title 39 RCW."

MOTION

Senator Brown moved that the following amendment by Senator Brown to the striking amendment be adopted.

On page 1 of the amendment, line 26, strike "in which" and insert "after"

Senator Brown spoke in favor of adoption of the amendment to the striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senator Brown on page 1, line 26 to the striking amendment to Engrossed Second Substitute House Bill No. 2673.

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

Senators Brown, Zarelli and Shin spoke in favor of adoption of the striking amendment as amended.

The President Pro Tempore declared the question before the Senate to be the adoption of the striking amendment by Senators Brown and Zarelli as amended to Engrossed Second Substitute House Bill No. 2673.

The motion by Senator Brown carried and the striking amendment as amended was adopted by voice vote.

MOTION

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

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "adding a new section to chapter 82.14 RCW; adding a new chapter to Title 39 RCW; creating new sections; providing an effective date; and providing an expiration date."

MOTION

On motion of Senator Brown, the rules were suspended, Engrossed Second Substitute House Bill No. 2673 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Brown spoke in favor of passage of the bill.

MOTION

On motion of Senator Hewitt, Senator Deccio was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2673 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2673 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 41

Voting nay: Senators Finkbeiner, Honeyford, Mulliken and Pflug - 4

Excused: Senators Benson, Deccio, McCaslin and Oke - 4

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2673 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The President assumed the chair.

PARLIAMENTARY INQUIRY

Senator Jacobsen: "I understand under Senate Rules, we only work until 10 o'clock and that rule hasn't been suspended. What time is now by your watch?"

REPLY BY THE PRESIDENT

President Owen: "Eight minutes after ten, Senator Jacobsen."

MOTION

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

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

PARLIAMENTARY INQUIRY

Senator Jacobsen: "The previous bill that was passed after 10:00 before the rules were suspended, is that properly passed?"

REPLY BY THE PRESIDENT

President Owen: "Senator Jacobsen, it is necessary, the President believes that it would be necessary for you to raise your point of order at the time the bill was being considered for it to be out of order. Therefore, since nobody in the body raised the question or challenged the question then it was in order."

MOTION

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

MESSAGE FROM THE HOUSE

March 4, 2006

MR. PRESIDENT:
The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2576 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kline moved that the Senate recede from its position to the Senate amendments to Substitute House Bill No. 2576.

The President declared the question before the Senate to be motion by Senator Kline that the Senate recede from its position on the Senate amendments to Substitute House Bill No. 2576.

The motion by Senator Kline carried and the Senate receded from its amendments on Substitute House Bill No. 2576.

MOTION

On motion of Senator Kline, the rules were suspended and Substitute House Bill No. 2576 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2576, by House Committee on Judiciary (originally sponsored by Representatives Williams, Green, O'Brien, Kirby, Hunt, Ericks, Simpson, Lovick, McCoy, Lantz, Ormsby, Springer and Conway)

Creating sexual assault protection orders.

The measure was read the second time.

MOTION

Senator Kline moved that the following striking amendment by Senators Kline and Johnson be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** Sexual assault is the most heinous crime against another person short of murder. Sexual assault inflicts humiliation, degradation, and terror on victims. According to the FBI, a woman is raped every six minutes in the United States. Rape is recognized as the most underreported crime; estimates suggest that only one in seven rapes is reported to authorities. Victims who do not report the crime still desire safety and protection from future interactions with the offender. Some cases in which the rape is reported are not prosecuted. In these situations, the victim should be able to seek a civil remedy requiring that the offender stay away from the victim.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Nonconsensual" means a lack of freely given agreement.

(2) "Petitioner" means any named petitioner for the sexual assault protection order or any named victim of nonconsensual sexual conduct or nonconsensual sexual penetration on whose behalf the petition is brought.

(3) "Sexual assault protection order" means an ex parte temporary order or a final order granted under this chapter, which includes a remedy authorized by section 10 of this act.

(4) "Sexual conduct" means any of the following:

(a) Any intentional or knowing touching or fondling of the genitals, anus, or breasts, directly or indirectly, including through clothing;

(b) Any intentional or knowing display of the genitals, anus, or breasts for the purposes of arousal or sexual gratification of the respondent;

(c) Any intentional or knowing touching or fondling of the genitals, anus, or breasts, directly or indirectly, including through clothing, that the petitioner is forced to perform by another person or the respondent;

(d) Any forced display of the petitioner's genitals, anus, or breasts for the purposes of arousal or sexual gratification of the respondent or others;

(e) Any intentional or knowing touching of the clothed or unclothed body of a child under the age of thirteen, if done for the purpose of sexual gratification or arousal of the respondent or others; and

(f) Any coerced or forced touching or fondling by a child under the age of thirteen, directly or indirectly, including through clothing, of the genitals, anus, or breasts of the respondent or others.

(5) "Sexual penetration" means any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth, or anus of another person, or any intrusion,

however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio, or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.

(6) "Nonphysical contact" includes, but is not limited to, telephone calls, mail, e-mail, fax, and written notes.

NEW SECTION. **Sec. 3.** A petition for a sexual assault protection order may be filed by a person:

(1) Who is a victim of nonconsensual sexual conduct or nonconsensual sexual penetration, including a single incident of nonconsensual sexual conduct or nonconsensual sexual penetration; or

(2) On behalf of any of the following persons who is a victim of nonconsensual sexual conduct or nonconsensual sexual penetration:

(a) A minor child;

(b) A vulnerable adult as defined in RCW 74.34.020 or 74.34.021; or

(c) Any other adult who, because of age, disability, health, or inaccessibility, cannot file the petition.

NEW SECTION. **Sec. 4.** (1) Any person may seek relief under this chapter by filing a petition with a court alleging that the person has been the victim of nonconsensual sexual conduct or nonconsensual sexual penetration committed by the respondent.

(2) A person under eighteen years of age who is sixteen years of age or older may seek relief under this chapter and is not required to seek relief by a guardian or next friend.

(3) No guardian or guardian ad litem need be appointed on behalf of a respondent to an action under this chapter who is under eighteen years of age if such respondent is sixteen years of age or older.

(4) The court may, if it deems necessary, appoint a guardian ad litem for a petitioner or respondent who is a party to an action under this chapter.

(5) Jurisdiction of the courts over proceedings under this chapter shall be the same as jurisdiction over domestic violence protection orders under RCW 26.50.020(5).

(6) An action under this chapter shall be filed in the county or the municipality where the petitioner resides.

NEW SECTION. **Sec. 5.** There shall exist an action known as a petition for a sexual assault protection order.

(1) A petition for relief shall allege the existence of nonconsensual sexual conduct or nonconsensual sexual penetration, and shall be accompanied by an affidavit made under oath stating the specific statements or actions made at the same time of the sexual assault or subsequently thereafter, which give rise to a reasonable fear of future dangerous acts, for which relief is sought. Petitioner and respondent shall disclose the existence of any other litigation or of any other restraining, protection, or no-contact orders between the parties.

(2) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition, or other action between the parties.

(3) Within ninety days of receipt of the master copy from the administrative office of the courts, all court clerk's offices shall make available the standardized forms, instructions, and informational brochures required by section 19 of this act and shall fill in and keep current specific program names and telephone numbers for community resources. Any assistance or information provided by clerks under this section does not constitute the practice of law and clerks are not responsible for incorrect information contained in a petition.

(4) No filing fee may be charged for proceedings under this chapter. Forms and instructional brochures and the necessary number of certified copies shall be provided free of charge.

(5) A person is not required to post a bond to obtain relief in any proceeding under this section.

(6) If the petition states that disclosure of the petitioner's address would risk abuse of the petitioner or any member of the petitioner's family or household, that address may be omitted from all documents filed with the court. If the petitioner has not disclosed an address under this subsection, the petitioner shall designate an alternative address at which the respondent may serve notice of any motions.

NEW SECTION. **Sec. 6.** Upon receipt of the petition, the court shall order a hearing which shall be held not later than fourteen days from the date of the order. The court may schedule a hearing by telephone pursuant to local court rule, to reasonably accommodate a disability, or in exceptional circumstances to protect a petitioner from further nonconsensual sexual conduct or nonconsensual sexual penetration. The court shall require assurances of the petitioner's identity before conducting a telephonic hearing. Except as provided in section 12 of this act, personal service shall be made upon the respondent not less than five court days prior to the hearing. If timely personal service cannot be made, the court shall set a new hearing date and shall require additional attempts at obtaining personal service. The court may issue an ex parte temporary sexual assault order pending the hearing as provided in section 12 of this act.

NEW SECTION. **Sec. 7.** Sexual assault advocates, as defined in RCW 5.60.060, shall be allowed to accompany the victim and confer with the victim, unless otherwise directed by the court. Court administrators shall allow sexual assault advocates to assist victims of nonconsensual sexual conduct or nonconsensual sexual penetration in the preparation of petitions for sexual assault protection orders. Sexual assault advocates are not engaged in the unauthorized practice of law when providing assistance of the types specified in this section. Communications between the petitioner and a sexual assault advocate are protected as provided by RCW 5.60.060.

NEW SECTION. **Sec. 8.** The court may appoint counsel to represent the petitioner if the respondent is represented by counsel.

NEW SECTION. **Sec. 9.** (1) In proceedings for a sexual assault protection order and prosecutions for violating a sexual assault protection order, the prior sexual activity or the reputation of the petitioner is inadmissible except:

(a) As evidence concerning the past sexual conduct of the petitioner with the respondent when this evidence is offered by the respondent upon the issue of whether the petitioner consented to the sexual conduct with respect to which the offense is alleged; or

(b) When constitutionally required to be admitted.

(2) No evidence admissible under this section may be introduced unless ruled admissible by the court after an offer of proof has been made at a hearing held in camera to determine whether the respondent has evidence to impeach the witness in the event that prior sexual activity with the respondent is denied. The offer of proof shall include reasonably specific information as to the date, time, and place of the past sexual conduct between the petitioner and the respondent. Unless the court finds that reasonably specific information as to date, time, or place, or some combination thereof, has been offered as to prior sexual activity with the respondent, counsel for the respondent shall be ordered to refrain from inquiring into prior sexual activity between the petitioner and the respondent. The court may not admit evidence under this section unless it determines at the hearing that the evidence is relevant and the probative value of the evidence outweighs the danger of unfair prejudice. The evidence shall be admissible at trial to the extent an order made by the court specifies the evidence that may be admitted and areas with respect to which the petitioner may be examined or cross-examined.

NEW SECTION. **Sec. 10.** (1)(a) If the court finds by a preponderance of the evidence that the petitioner has been a victim of nonconsensual sexual conduct or nonconsensual sexual penetration by the respondent, the court shall issue a sexual assault protection order; provided that the petitioner must

also satisfy the requirements of section 12 of this act for ex parte temporary orders or section 13 of this act for final orders.

(b) The petitioner shall not be denied a sexual assault protection order because the petitioner or the respondent is a minor or because the petitioner did not report the assault to law enforcement. The court, when determining whether or not to issue a sexual assault protection order, may not require proof of physical injury on the person of the victim or proof that the petitioner has reported the sexual assault to law enforcement. Modification and extension of prior sexual assault protection orders shall be in accordance with this chapter.

(2) The court may provide relief as follows:

(a) Restrain the respondent from having any contact, including nonphysical contact, with the petitioner directly, indirectly, or through third parties regardless of whether those third parties know of the order;

(b) Exclude the respondent from the petitioner's residence, workplace, or school, or from the day care or school of a child, if the victim is a child;

(c) Prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(d) Order any other injunctive relief as necessary or appropriate for the protection of the petitioner.

(3) In cases where the petitioner and the respondent are under the age of eighteen and attend the same public or private elementary, middle, or high school, the court, when issuing a protection order and providing relief, shall consider, among the other facts of the case, the severity of the act, any continuing physical danger or emotional distress to the petitioner, and the expense difficulty, and educational disruption that would be caused by a transfer of the respondent to another school. The court may order that the person restrained in the order not attend the public or approved private elementary, middle, or high school attended by the person under the age of eighteen protected by the order. In the event the court orders a transfer of the restrained person to another school, the parents or legal guardians of the person restrained in the order are responsible for transportation and other costs associated with the change of school by the person restrained in the order. The court shall send notice of the restriction on attending the same school as the person protected by the order to the public or approved private school the person restrained by the order will attend and to the school the person protected by the order attends.

(4) Denial of a remedy may not be based, in whole or in part, on evidence that:

(a) The respondent was voluntarily intoxicated;

(b) The petitioner was voluntarily intoxicated; or

(c) The petitioner engaged in limited consensual sexual touching.

(5) Monetary damages are not recoverable as a remedy.

(6) A knowing violation of a court order issued under this section is punishable under RCW 26.50.110.

NEW SECTION. **Sec. 11.** For the purposes of issuing a sexual assault protection order, deciding what relief should be included in the order, and enforcing the order, RCW 9A.08.020 shall govern whether the respondent is legally accountable for the conduct of another person.

NEW SECTION. **Sec. 12.** (1) An ex parte temporary sexual assault protection order shall issue if the petitioner satisfies the requirements of this subsection by a preponderance of the evidence. The petitioner shall establish that:

(a) The petitioner has been a victim of nonconsensual sexual conduct or nonconsensual sexual penetration by the respondent; and

(b) There is good cause to grant the remedy, regardless of prior service of process or of notice upon the respondent, because the harm which that remedy is intended to prevent would be likely to occur if the respondent were given any prior notice, or greater notice than was actually given, of the petitioner's efforts to obtain judicial relief.

(2) If the respondent appears in court for this hearing for an ex parte temporary order, he or she may elect to file a general appearance and testify. Any resulting order may be an ex parte temporary order, governed by this section.

(3) If the court declines to issue an ex parte temporary sexual assault protection order, the court shall state the particular reasons for the court's denial. The court's denial of a motion for an ex parte order shall be filed with the court.

(4) A knowing violation of a court order issued under this section is punishable under RCW 26.50.110.

NEW SECTION. **Sec. 13.** (1)(a) An ex parte temporary sexual assault protection order shall be effective for a fixed period not to exceed fourteen days. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order. Except as provided in section 6 of this act, the respondent shall be personally served with a copy of the ex parte temporary sexual assault protection order along with a copy of the petition and notice of the date set for the hearing.

(b) Any ex parte temporary order issued under this section shall contain the date and time of issuance and the expiration date and shall be entered into a statewide judicial information system by the clerk of the court within one judicial day after issuance.

(2) Except as otherwise provided in this section or section 16 of this act, a final sexual assault protection order shall be effective for a fixed period of time, not to exceed two years.

(3) Any ex parte temporary or final sexual assault protection order may be renewed one or more times, as required. The petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. If the motion for renewal is uncontested and the petitioner seeks no modification of the order, the order may be renewed on the basis of the petitioner's motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested renewal. Renewals may be granted only in open court.

(4) Any sexual assault protection order which would expire on a court holiday shall instead expire at the close of the next court business day.

(5) The practice of dismissing or suspending a criminal prosecution in exchange for the issuance of a sexual assault protection order undermines the purposes of this chapter. This section shall not be construed as encouraging that practice.

NEW SECTION. **Sec. 14.** (1) Any sexual assault protection order shall describe each remedy granted by the court, in reasonable detail and not by reference to any other document, so that the respondent may clearly understand what he or she must do or refrain from doing.

(2) A sexual assault protection order shall further state the following:

(a) The name of each petitioner that the court finds was the victim of nonconsensual sexual conduct or nonconsensual sexual penetration by the respondent;

(b) The date and time the sexual assault protection order was issued, whether it is an ex parte temporary or final order, and the duration of the order;

(c) The date, time, and place for any scheduled hearing for renewal of that sexual assault protection order or for another order of greater duration or scope;

(d) For each remedy in an ex parte temporary sexual assault protection order, the reason for entering that remedy without prior notice to the respondent or greater notice than was actually given;

(e) For ex parte temporary sexual assault protection orders, that the respondent may petition the court, to reopen the order if he or she did not receive actual prior notice of the hearing and if the respondent alleges that he or she had a meritorious defense to the order or that the order or its remedy is not authorized by this chapter.

(3) A sexual assault protection order shall include the following notice, printed in conspicuous type: "A knowing violation of this sexual assault protection order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

NEW SECTION. **Sec. 15.** (1) An order issued under this chapter shall be personally served upon the respondent, except as provided in subsection (6) of this section.

(2) The sheriff of the county or the peace officers of the municipality in which the respondent resides shall serve the respondent personally unless the petitioner elects to have the respondent served by a private party.

(3) If service by a sheriff or municipal peace officer is to be used, the clerk of the court shall have a copy of any order issued under this chapter forwarded on or before the next judicial day to the appropriate law enforcement agency specified in the order for service upon the respondent. Service of an order issued under this chapter shall take precedence over the service of other documents unless they are of a similar emergency nature.

(4) If the sheriff or municipal peace officer cannot complete service upon the respondent within ten days, the sheriff or municipal peace officer shall notify the petitioner. The petitioner shall provide information sufficient to permit notification.

(5) Returns of service under this chapter shall be made in accordance with the applicable court rules.

(6) If an order entered by the court recites that the respondent appeared in person before the court, the necessity for further service is waived and proof of service of that order is not necessary.

NEW SECTION. **Sec. 16.** (1)(a) When any person charged with or arrested for a sex offense as defined in RCW 9.94A.030, a violation of RCW 9A.44.096, a violation of RCW 9.68A.090, or a gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030, is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a sexual assault protection order prohibiting the person charged or arrested from having contact with the victim or from knowingly coming within, or knowingly remaining within, a specified distance of a location.

(b) In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(c) The sexual assault protection order shall also be issued in writing as soon as possible.

(2)(a) At the time of arraignment or whenever a motion is brought to modify the conditions of the defendant's release, the court shall determine whether a sexual assault protection order shall be issued or extended. If a sexual assault protection order is issued or extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(b) A sexual assault protection order issued by the court in conjunction with criminal charges shall terminate if the defendant is acquitted or the charges are dismissed, unless the victim files an independent action for a sexual assault protection order. If the victim files an independent action for a sexual assault protection order, the order may be continued by the court until a full hearing is conducted pursuant to section 6 of this act.

(3)(a) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(b) A certified copy of the order shall be provided to the victim at no charge.

(4) If a sexual assault protection order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer-based criminal intelligence information system in this state which is used by law enforcement agencies to list outstanding warrants.

(5) Whenever an order prohibiting contact is issued pursuant to subsection (2) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

(6)(a) When a defendant is found guilty of a sex offense as defined in RCW 9.94A.030, any violation of RCW 9A.44.096, or any violation of RCW 9.68A.090, or any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030, and a condition of the sentence restricts the defendant's ability to have contact with the victim, the condition shall be recorded as a sexual assault protection order.

(b) The written order entered as a condition of sentencing shall contain the court's directives and shall bear the legend: "Violation of this order is a criminal offense under chapter 26.50 RCW and will subject a violator to arrest. You can be arrested even if any person protected by the order invites or allows you to violate the order's prohibitions. You have the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order."

(c) A final sexual assault protection order entered in conjunction with a criminal prosecution shall remain in effect for a period of two years following the expiration of any sentence of imprisonment and subsequent period of community supervision, conditional release, probation, or parole.

(d) A certified copy of the order shall be provided to the victim at no charge.

(7) A knowing violation of a court order issued under subsection (1), (2), or (6) of this section is punishable under RCW 26.50.110.

(8) Whenever a sexual assault protection order is issued, modified, or terminated under subsection (1), (2), or (6) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the law enforcement agency shall enter the order for one year or until the expiration date specified on the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the computer-based criminal intelligence information system constitutes notice to all

law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state. Upon receipt of notice that an order has been terminated under subsection (2) of this section, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system.

NEW SECTION. **Sec. 17.** (1) A copy of a sexual assault protection order granted under this chapter shall be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall immediately enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order shall remain in the computer for one year or until the expiration date specified on the order. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from the computer-based criminal intelligence information system. The law enforcement agency shall only expunge from the computer-based criminal intelligence information system orders that are expired, vacated, terminated, or superseded. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

(2) The information entered into the computer-based criminal intelligence information system shall include notice to law enforcement whether the order was personally served, served by publication, or served by mail.

NEW SECTION. **Sec. 18.** Upon application with notice to all parties and after a hearing, the court may modify the terms of an existing sexual assault protection order. In any situation where an order is terminated or modified before its expiration date, the clerk of the court shall forward on or before the next judicial day a true copy of the modified order or the termination order to the appropriate law enforcement agency specified in the modified or termination order. Upon receipt of the order, the law enforcement agency shall promptly enter it in the computer-based criminal intelligence information system, or if the order is terminated, remove the order from the computer-based criminal intelligence information system.

NEW SECTION. **Sec. 19.** (1) The administrative office of the courts shall develop and prepare instructions and informational brochures required under section 5 of this act, standard petition and order for protection forms, and a court staff handbook on sexual assault, and the protection order process. The standard petition and order for protection forms must be used after September 1, 2006, for all petitions filed and orders issued under this chapter. The instructions, brochures, forms, and handbook shall be prepared in consultation with interested persons, including a representative of the state sexual assault coalition, judges, and law enforcement personnel.

(a) The instructions shall be designed to assist petitioners in completing the petition, and shall include a sample of standard petition and order for protection forms.

(b) The informational brochure shall describe the use of and the process for obtaining, modifying, and terminating a protection order as provided under this chapter.

(c) The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order, and the following statement: "You can be arrested even if the person or persons who obtained the order invite or allow you to violate the order's prohibitions. The respondent has the sole responsibility to avoid or refrain from violating the order's provisions. Only the court can change the order upon written application."

(d) The court staff handbook shall allow for the addition of a community resource list by the court clerk.

(2) All court clerks shall obtain a community resource list from a sexual assault program serving the county in which the court is located. The community resource list shall include the names and telephone numbers of sexual assault programs serving the community in which the court is located, including law enforcement agencies, domestic violence agencies, sexual assault agencies, legal assistance programs, interpreters, multicultural programs, and batterers' treatment programs. The court shall make the community resource list available as part of or in addition to the informational brochures described in subsection (1) of this section.

(3) The administrative office of the courts shall distribute a master copy of the petition and order forms, instructions, and informational brochures to all court clerks and shall distribute a master copy of the petition and order forms to all superior, district, and municipal courts.

(4) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

(5) The administrative office of the courts shall determine the significant non-English-speaking or limited English-speaking populations in the state. The administrator shall then arrange for translation of the instructions and informational brochures required by this section, which shall contain a sample of the standard petition and order for protection forms, into the languages spoken by those significant non-English-speaking populations and shall distribute a master copy of the translated instructions and informational brochures to all court clerks by December 1, 2006.

(6) The administrative office of the courts shall update the instructions, brochures, standard petition and order for protection forms, and court staff handbook when changes in the law make an update necessary.

NEW SECTION. **Sec. 20.** An ex parte temporary order issued under this chapter shall not be admissible as evidence in any subsequent civil action for damages arising from the conduct alleged in the petition or the order.

Sec. 21. RCW 9A.46.060 and 2004 c 94 s 4 are each amended to read as follows:

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

(1) Harassment (RCW 9A.46.020);

(2) Malicious harassment (RCW 9A.36.080);

(3) Telephone harassment (RCW 9.61.230);

(4) Assault in the first degree (RCW 9A.36.011);

(5) Assault of a child in the first degree (RCW 9A.36.120);

(6) Assault in the second degree (RCW 9A.36.021);

(7) Assault of a child in the second degree (RCW 9A.36.130);

(8) Assault in the fourth degree (RCW 9A.36.041);

(9) Reckless endangerment (RCW 9A.36.050);

(10) Extortion in the first degree (RCW 9A.56.120);

(11) Extortion in the second degree (RCW 9A.56.130);

(12) Coercion (RCW 9A.36.070);

(13) Burglary in the first degree (RCW 9A.52.020);

(14) Burglary in the second degree (RCW 9A.52.030);

(15) Criminal trespass in the first degree (RCW 9A.52.070);

(16) Criminal trespass in the second degree (RCW 9A.52.080);

(17) Malicious mischief in the first degree (RCW 9A.48.070);

(18) Malicious mischief in the second degree (RCW 9A.48.080);

(19) Malicious mischief in the third degree (RCW 9A.48.090);

(20) Kidnapping in the first degree (RCW 9A.40.020);

(21) Kidnapping in the second degree (RCW 9A.40.030);

(22) Unlawful imprisonment (RCW 9A.40.040);

(23) Rape in the first degree (RCW 9A.44.040);

(24) Rape in the second degree (RCW 9A.44.050);

(25) Rape in the third degree (RCW 9A.44.060);

(26) Indecent liberties (RCW 9A.44.100);

(27) Rape of a child in the first degree (RCW 9A.44.073);

(28) Rape of a child in the second degree (RCW 9A.44.076);

(29) Rape of a child in the third degree (RCW 9A.44.079);

(30) Child molestation in the first degree (RCW 9A.44.083);

(31) Child molestation in the second degree (RCW 9A.44.086);

(32) Child molestation in the third degree (RCW 9A.44.089);

(33) Stalking (RCW 9A.46.110);

(34) Cyberstalking (RCW 9.61.260);

(35) Residential burglary (RCW 9A.52.025);

(36) Violation of a temporary ((or)), permanent, or final protective order issued pursuant to chapter 7.-- (sections 1 through 20 of this act), 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW;

(37) Unlawful discharge of a laser in the first degree (RCW 9A.49.020); and

(38) Unlawful discharge of a laser in the second degree (RCW 9A.49.030).

Sec. 22. RCW 10.14.130 and 1987 c 280 s 13 are each amended to read as follows:

Protection orders authorized under this chapter shall not be issued for any action specifically covered by chapter 7.-- (sections 1 through 20 of this act), 10.99, or 26.50 RCW.

Sec. 23. RCW 10.31.100 and 2000 c 119 s 4 are each amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (10) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.-- (sections 1 through 20 of this act), 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

(c) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the history of domestic violence between the persons involved.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(f) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(6) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(7) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(8) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(9) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(10) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous

weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(11) Except as specifically provided in subsections (2), (3), (4), and (6) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

(12) No police officer may be held criminally or civilly liable for making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police officer acts in good faith and without malice.

Sec. 24. RCW 19.220.010 and 2003 c 268 s 1 are each amended to read as follows:

(1) Each international matchmaking organization doing business in Washington state shall disseminate to a recruit, upon request, state background check information and personal history information relating to any Washington state resident about whom any information is provided to the recruit, in the recruit's native language. The organization shall notify all recruits that background check and personal history information is available upon request. The notice that background check and personal history information is available upon request shall be in the recruit's native language and shall be displayed in a manner that separates it from other information, is highly noticeable, and in lettering not less than one-quarter of an inch high.

(2) If an international matchmaking organization receives a request for information from a recruit pursuant to subsection (1) of this section, the organization shall notify the Washington state resident of the request. Upon receiving notification, the Washington state resident shall obtain from the state patrol and provide to the organization the complete transcript of any background check information provided pursuant to RCW 43.43.760 based on a submission of fingerprint impressions and provided pursuant to RCW 43.43.838 and shall provide to the organization his or her personal history information. The organization shall require the resident to affirm that personal history information is complete and accurate. The organization shall refrain from knowingly providing any further services to the recruit or the Washington state resident in regards to facilitating future interaction between the recruit and the Washington state resident until the organization has obtained the requested information and provided it to the recruit.

(3) This section does not apply to a traditional matchmaking organization of a religious nature that otherwise operates in compliance with the laws of the countries of the recruits of such organization and the laws of the United States nor to any organization that does not charge a fee to any party for the service provided.

(4) As used in this section:

(a) "International matchmaking organization" means a corporation, partnership, business, or other legal entity, whether or not organized under the laws of the United States or any state, that does business in the United States and for profit offers to Washington state residents, including aliens lawfully admitted for permanent residence and residing in Washington state, dating, matrimonial, or social referral services involving citizens of a foreign country or countries who are not residing in the United States, by: (i) An exchange of names, telephone numbers, addresses, or statistics; (ii) selection of photographs; or (iii) a social environment provided by the organization in a country other than the United States.

(b) "Personal history information" means a declaration of the person's current marital status, the number of previous marriages, annulments, and dissolutions for the person, and whether any previous marriages occurred as a result of receiving services from an international matchmaking organization; founded allegations of child abuse or neglect; and any existing orders under chapter 7.-- (sections 1 through 20 of this act), 10.14, 10.99, or 26.50 RCW. Personal history information shall include information from the state of Washington and any information from other states or countries.

(c) "Recruit" means a noncitizen, nonresident person, recruited by an international matchmaking organization for the purpose of providing dating, matrimonial, or social referral services.

Sec. 25. RCW 26.50.110 and 2000 c 119 s 24 are each amended to read as follows:

(1) Whenever an order is granted under this chapter, chapter 7.--(sections 1 through 20 of this act), 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or there is a valid foreign protection order as defined in RCW 26.52.020, and the respondent or person to be restrained knows of the order, a violation of the restraint provisions, or of a provision excluding the person from a residence, workplace, school, or day care, or of a provision prohibiting a person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or of a provision of a foreign protection order specifically indicating that a violation will be a crime, for which an arrest is required under RCW 10.31.100(2) (a) or (b), is a gross misdemeanor except as provided in subsections (4) and (5) of this section. Upon conviction, and in addition to any other penalties provided by law, the court may require that the respondent submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services, and the terms under which the monitoring shall be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(2) A peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order issued under this chapter, chapter 7.-- (sections 1 through 20 of this act), 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, that restrains the person or excludes the person from a residence, workplace, school, or day care, or prohibits the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, if the person restrained knows of the order. Presence of the order in the law enforcement computer-based criminal intelligence information system is not the only means of establishing knowledge of the order.

(3) A violation of an order issued under this chapter, chapter 7.--(sections 1 through 20 of this act), 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, shall also constitute contempt of court, and is subject to the penalties prescribed by law.

(4) Any assault that is a violation of an order issued under this chapter, chapter 7.-- (sections 1 through 20 of this act), 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any conduct in violation of such an order that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony.

(5) A violation of a court order issued under this chapter, chapter 7.-- (sections 1 through 20 of this act), 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or of a valid foreign protection order as defined in RCW 26.52.020, is a class C felony if the offender has at least two previous convictions for violating the provisions of an order issued under this chapter, chapter 7.-- (sections 1 through 20 of this act), 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020. The previous convictions may involve the same victim or other victims specifically protected by the orders the offender violated.

(6) Upon the filing of an affidavit by the petitioner or any peace officer alleging that the respondent has violated an order granted under this chapter, chapter 7.-- (sections 1 through 20 of this act), 10.99, 26.09, 26.10, 26.26, or 74.34 RCW, or a valid foreign protection order as defined in RCW 26.52.020, the court may issue an order to the respondent, requiring the respondent

to appear and show cause within fourteen days why the respondent should not be found in contempt of court and punished accordingly. The hearing may be held in the court of any county or municipality in which the petitioner or respondent temporarily or permanently resides at the time of the alleged violation.

Sec. 26. RCW 26.50.160 and 2000 c 119 s 25 and 2000 c 51 s 1 are each reenacted and amended to read as follows:

To prevent the issuance of competing protection orders in different courts and to give courts needed information for issuance of orders, the judicial information system shall be available in each district, municipal, and superior court by July 1, 1997, and shall include a data base containing the following information:

(1) The names of the parties and the cause number for every order of protection issued under this title, every sexual assault protection order issued under chapter 7.-- RCW (sections 1 through 20 of this act), every criminal no-contact order issued under chapters 9A.46 and 10.99 RCW, every antiharassment order issued under chapter 10.14 RCW, every dissolution action under chapter 26.09 RCW, every third-party custody action under chapter 26.10 RCW, every parentage action under chapter 26.26 RCW, every restraining order issued on behalf of an abused child or adult dependent person under chapter 26.44 RCW, every foreign protection order filed under chapter 26.52 RCW, and every order for protection of a vulnerable adult under chapter 74.34 RCW. When a guardian or the department of social and health services has petitioned for relief on behalf of an abused child, adult dependent person, or vulnerable adult, the name of the person on whose behalf relief was sought shall be included in the data base as a party rather than the guardian or department;

(2) A criminal history of the parties; and

(3) Other relevant information necessary to assist courts in issuing orders under this chapter as determined by the judicial information system committee.

Sec. 27. RCW 59.18.575 and 2004 c 17 s 3 are each amended to read as follows:

(1)(a) If a tenant notifies the landlord in writing that he or she or a household member was a victim of an act that constitutes a crime of domestic violence, sexual assault, or stalking, and either (a)(i) or (ii) of this subsection applies, then subsection (2) of this section applies:

(i) The tenant or the household member has a valid order for protection under one or more of the following: Chapter 7.-- (sections 1 through 20 of this act), 26.50, or 26.26 RCW or RCW 9A.46.040, 9A.46.050, 10.14.080, 10.99.040 (2) or (3), or 26.09.050; or

(ii) The tenant or the household member has reported the domestic violence, sexual assault, or stalking to a qualified third party acting in his or her official capacity and the qualified third party has provided the tenant or the household member a written record of the report signed by the qualified third party.

(b) When a copy of a valid order for protection or a written record of a report signed by a qualified third party, as required under (a) of this subsection, is made available to the landlord, the tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement or under chapter 59.12 RCW. However, the request to terminate the rental agreement must occur within ninety days of the reported act, event, or circumstance that gave rise to the protective order or report to a qualified third party. A record of the report to a qualified third party that is provided to the tenant or household member shall consist of a document signed and dated by the qualified third party stating: (i) That the tenant or the household member notified him or her that he or she was a victim of an act or acts that constitute a crime of domestic violence, sexual assault, or stalking; (ii) the time and date the act or acts occurred; (iii) the location where the act or acts occurred; (iv) a brief description of the act or acts of domestic violence, sexual assault, or stalking; and (v) that the tenant or household member informed him or her of the name of the alleged perpetrator of the act or acts. The record of the report provided to the tenant or household member shall not include the name of the alleged perpetrator of the act or acts of domestic violence, sexual assault, or stalking. The qualified third party shall keep a copy of the record of the report and shall note on the retained copy the name of the alleged perpetrator of the act or acts of domestic violence, sexual assault, or stalking. The record of the report to a qualified third party may be accomplished by completion of a form provided by the qualified third party, in substantially the following form:

. . . . . .
[Name of organization, agency, clinic, professional service provider]

I and/or my . . . . . (household member) am/is a victim of

. . . domestic violence as defined by RCW 26.50.010.

. . . sexual assault as defined by RCW 70.125.030.

. . . stalking as defined by RCW 9A.46.110.

Briefly describe the incident of domestic violence, sexual assault, or stalking: . . . . . .
. . . . . .

The incident(s) that I rely on in support of this declaration occurred on the following date(s) and time(s) and at the
following location(s): . . . . . .

The incident(s) that I rely on in support of this declaration were committed by the following person(s): . . .
. . . . . .

I state under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.
Dated at . . . . . (city) . ., Washington, this . . . day of . . . ., 20. ..

. . . . . .
Signature
of Tenant
or
Household
Member

I verify that I have provided to the person whose signature appears above the statutes cited in RCW 59.18.575 and
that the individual was a victim of an act that constitutes a crime of domestic violence, sexual assault, or stalking, and that the individual informed me of the name of the alleged perpetrator of the act.
Dated this . . . day of . . . ., 20. ..

. . . . . .
Signature of authorized officer/employee of (Organization, agency, clinic, professional service provider)

(2) A tenant who terminates a rental agreement under this section is discharged from the payment of rent for any period following the last day of the month of the quitting date. The tenant shall remain liable for the rent for the month in which he or she terminated the rental agreement unless the termination is in accordance with RCW 59.18.200(1). Notwithstanding lease provisions that allow for forfeiture of a deposit for early termination, a tenant who terminates under this section is entitled to the return of the full deposit, subject to RCW 59.18.020 and 59.18.280. Other tenants who are parties to the rental agreement, except household members who are the victims of sexual assault, stalking, or domestic violence, are not released from their obligations under the rental agreement or other obligations under this chapter.

(3) The provision of verification of a report under subsection (1)(b) of this section does not waive the confidential or privileged nature of the communication between a victim of domestic violence, sexual assault, or stalking with a qualified third party pursuant to RCW 5.60.060, 70.123.075, or 70.125.065. No record or evidence obtained from such disclosure may be used in any civil, administrative, or criminal proceeding against the victim unless a written waiver of applicable evidentiary privilege is obtained, except that the verification itself, and no other privileged information, under subsection (1)(b) of this section may be used in civil proceedings brought under this section.

NEW SECTION. **Sec. 28.** This act may be cited as the sexual assault protection order act.

NEW SECTION. **Sec. 29.** Sections 1 through 20 of this act constitute a new chapter in Title 7 RCW."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kline and Johnson to Substitute House Bill No. 2576.

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

MOTION

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

On page 1, line 1 of the title, after "victims;" strike the remainder of the title and insert "amending RCW 9A.46.060, 10.14.130, 10.31.100, 19.220.010, 26.50.110, and 59.18.575; reenacting and amending RCW 26.50.160; adding a new chapter to Title 7 RCW; creating a new section; and prescribing penalties."

MOTION

On motion of Senator Kline, the rules were suspended, Substitute House Bill No. 2576 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2576 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2576 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Benson, Deccio, McCaslin and Oke - 4

SUBSTITUTE HOUSE BILL NO. 2576 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

RULING BY THE PRESIDENT

President Owen: "In ruling upon the point of order raised by Senator Jacobsen that Section 29 of Amendment 412 is outside the scope and object of the underlying bill, the President finds and rules as follows.

The scope and object of this measure for our purposes is the bill as it was read into the Senate for the first time. In that version, the measure included multiple qualifications for consideration of the Alaskan Way Viaduct project. Section 29 of the striking amendment includes an advisory vote on this same project. Because both the underlying bill and this section of the amendment both relate to conditions under which this project may be considered, the amendment is properly within the scope and object of the bill, and the point of order is not well-taken."

The Senate resumed consideration of Substitute House Bill No. 2871 deferred earlier in the day.

PARLIAMENTARY INQUIRY

Senator Jacobsen: "Mr. President, when we set this bill down, it did not hold its place on the calendar. Is it now properly before us?"

REPLY BY THE PRESIDENT

President Owen: "Senator Jacobsen, the consideration was deferred, but the body did not send this bill anywhere else but where it was, so, it's still in the order that it was on."

MOTION

Senator Jacobsen moved that the following amendment by Senator Jacobsen to the striking amendment be adopted.

On page 12, line 10 of the amendment, after "than the" insert "2006 or"

Senator Jacobsen spoke in favor of adoption of the amendment to the striking amendment.

Senators Haugen and Finkbeiner spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Jacobsen on page 12, line 10 to the striking amendment to Engrossed Substitute House Bill No. 2871.

A division was demanded.

The motion by Senator Jacobsen failed and the amendment to the striking amendment was not adopted by a rising vote.

MOTION

Senator Jacobsen moved that the following amendment by Senator Jacobsen to the striking amendment be adopted.

On page 12, after line 34 , strike all material down through page 13, line 5.

On page 18, after line 20 , strike all material down through page 18, line 27.

Renumber the sections consecutively and correct any internal references accordingly.

Senators Jacobsen and Kohl-Welles spoke in favor of adoption of the amendment to the striking amendment.

Senators Haugen and Finkbeiner spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Jacobsen on page 12, line 34 to the striking amendment to Engrossed Substitute House Bill No. 2871.

The motion by Senator Jacobsen failed and the amendment to the striking amendment was not adopted by voice vote.

MOTION

Senator Jacobsen moved that the following amendment by Senator Jacobsen to the striking amendment be adopted.

On page 18, line 21 of the amendment, after "at the" insert "2006 or"

Senator Jacobsen spoke in favor of adoption of the amendment to the striking amendment.

Senator Haugen spoke against adoption of the amendment to the striking amendment.

POINT OF INQUIRY

Senator Jacobsen: "Would Senator Haugen yield to a question? I have one question. If they have been working very well together and they want to go to ballot together, how come the Sound Transit Board took a position today against this bill and mandating that they both be on the same ballot?"

Senator Haugen: "Thank you Senator Jacobsen. Actually I did have a conversation today with one member of the Sound Transit Board that did not agree with that decision. I think, like many of you on this floor, this is the first opportunity they've had to see this. I think that you will find that they will not find this offensive. I think, in the long run, they are going to work together because they have a goal to get to a vote in '07 which is something there has not been there before. We've actually saying now, 'Do it folks ,'and if they don't do it, they don't have to do it then but we do say you must try to get there."

President declared the question before the Senate to be the adoption of the amendment by Senator Jacobsen on page 18, line 21 to the striking amendment Engrossed Substitute House Bill No. 2871.

The motion by Senator Jacobsen failed and the amendment to the striking amendment was not adopted by voice vote.

MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Kline to the striking amendment be adopted.

On page 39, at the beginning of line 36 of the amendment, insert "(1)"

On page 40, after line 6 of the amendment, insert the following:

"(2) In the alternative to the provisions of subsection (1) of this section, following the report of the expert review panel's findings and recommendations completed under section 28(4)(c) of this act, the city legislative authority shall hold public hearings on the findings and recommendations. After such time, and by November 1, 2006, the city legislative authority shall adopt by ordinance a preferred alternative for the Alaskan Way viaduct and Seattle Seawall replacement project. The preferred alternative must, at a minimum, be based on a substantial project mitigation plan and a comprehensive cost estimate review using the department's cost estimate validation process."

Senators Haugen and Finkbeiner spoke in favor of adoption of the amendment to the striking amendment.

POINT OF INQUIRY

Senator Thibaudeau: "Would Senator Haugen yield to a question? Can't the city council do this now without this particular amendment?"

Senator Haugen: "Actually they don't have the information they'll have as the result of this expert panel."

Senator Thibaudeau: "They don't have the information but they could create an expert panel if they so chose."

Senator Haugen: "Actually they really couldn't because they couldn't afford to. We pay for this expert panel. We're paying for this. The city would not have the funding to do this."

Senator Thibaudeau: "In this legislation we're paying for it?"

Senator Haugen: "We're paying for it in our budget."

Senator Jacobsen spoke against the amendment to the striking amendment

The President declared the question before the Senate to be the adoption of the amendment by Senators Haugen and Kline on page 39, line 36 to the striking amendment to Engrossed Substitute House Bill No. 2871.

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

The President declared the question before the Senate to be the adoption of the striking amendment as amended by Senator Haugen to Engrossed Substitute House Bill No. 2871.

Senator Haugen spoke in favor of adoption of the striking amendment as amended.

The motion by Senator Haugen carried and the striking amendment as amended was adopted by voice vote.

MOTION

There being no objection, the following title amendment were adopted.

On page 1, line 1 of the title, after "governance;" strike the remainder of the title and insert "amending RCW 36.120.020, 36.120.030, 36.120.040, 36.120.070, 29A.36.071, 36.120.080, 36.120.110, 81.112.030, 36.120.050, 81.100.080, 81.100.060, 82.14.0455, 82.14.430, 82.80.120, 47.56.076, 36.73.015, and 36.73.020; reenacting and amending RCW 43.79A.040, 43.84.092, and 43.84.092; adding a new section to chapter 36.120 RCW; adding a new section to chapter 47.56 RCW; adding new sections to chapter 47.01 RCW; creating new sections; providing an effective date; and providing an expiration date."

MOTION

On motion of Senator Haugen, the rules were suspended, Engrossed Substitute House Bill No. 2871 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Haugen, Finkbeiner, Esser and Pflug spoke in favor of passage of the bill.

Senators Kohl-Welles and Jacobsen spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2871 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2871 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 38; Nays, 7; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Delvin, Doumit, Eide, Esser, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Johnson, Kastama, Keiser, Kline, McAuliffe, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Swecker, Weinstein and Zarelli - 38

Voting nay: Senators Carrell, Fairley, Jacobsen, Kohl-Welles, Morton, Stevens and Thibaudeau - 7

Excused: Senators Benson, Deccio, McCaslin and Oke - 4

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2871 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 6, 2006

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 3115 and asks Senate to recede therefrom.

and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate recede from its position on the Senate amendments to Second Substitute House Bill No. 3115.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position on the Senate amendments to Second Substitute House Bill No. 3115.

The motion by Senator Hargrove carried and the Senate receded from its amendments to Second Substitute House Bill No. 3115.

MOTION

On motion of Senator Hargrove, the rules were suspended and Second Substitute House Bill No. 3115 was returned to second reading for the purposes of amendment.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 3115, by House Committee on Appropriations (originally sponsored by Representatives Darneille, Talcott, Morrell, Green, McDonald, Ormsby, Simpson and Roberts)

Establishing a foster parent critical support and retention program.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that:

(1) Foster parents are able to successfully maintain placements of sexually reactive children, physically assaultive children, or children with other high-risk behaviors when they are provided with proper training and support. Lack of support contributes to placement disruptions and multiple moves between foster homes.

(2) Young children who have experienced repeated early abuse and trauma are at high risk for behavior later in life that is sexually deviant, if left untreated. Placement with a well-trained, prepared, and supported foster family can break this cycle.

NEW SECTION. **Sec. 2.** 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. 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.

NEW SECTION. **Sec. 3.** Under the foster parent critical support and retention program, foster parents who care for sexually reactive children, physically assaultive children, or children with other high-risk behaviors shall receive:

(1) Availability at any time of the day or night to address specific concerns related to the identified child;

(2) Assessment of risk and development of a safety and supervision plan;

(3) Home-based foster parent training utilizing evidence-based models; and

(4) Referral to relevant community services and training provided by the local children's administration office or community agencies.

NEW SECTION. **Sec. 4.** The department of social and health services shall prepare and provide to the legislature, by December 1, 2006, a comprehensive report regarding the department's policies and practices relating to referrals, investigations, and records of child abuse and neglect allegations. At a minimum, the report shall include recommendations for improvement of the department's current practice to:

(1) Define terms relating to referrals and investigative findings;

(2) Provide guidelines for determining whether a referral is to be assigned and investigated;

(3) Manage records of calls which are received but not investigated;

(4) Establish a timeline for the destruction of records regarding investigations which resulted in no investigation, an inconclusive finding, or an unfounded finding;

(5) Disclose to foster parents information regarding sexually reactive and physically aggressive tendencies of children placed in their homes;

(6) Respond to allegations of abuse, neglect, or failure to supervise against foster parents when the allegations arise from the conduct of a child who is sexually reactive or has physically aggressive tendencies and the foster parent did not have prior knowledge of those tendencies or the child was not in the reasonable control of the foster parent; and

(7) Protect the due process rights of individuals who are not afforded the protection of the child abuse and prevention and treatment act.

Sec. 5. RCW 74.13.280 and 2001 c 318 s 3 are each 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 agency, the department or agency shall share information 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 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 shall include information about behavioral and emotional problems of the child and whether the child is a sexually reactive child.

(3) 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.

((~~(3)~~)) (4) Disclosure of any relevant health care information shall be consistent with RCW 70.24.105 and any guidelines or recommendations established by the department of health concerning disclosure of such information, including testing for and disclosure of information related to blood-borne pathogens.

(5) Nothing in this section shall be construed to limit the authority of the department or child-placing agencies to disclose client information or to maintain client confidentiality as provided by law."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Hargrove, Stevens and Carrell to Second Substitute House Bill No. 3115.

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

MOTION

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

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 74.13.280; and creating new sections."

MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 3115 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 3115 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 3115 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Benson, Deccio, McCaslin and Oke - 4

SECOND SUBSTITUTE HOUSE BILL NO. 3115 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

SECOND READING

HOUSE BILL NO. 3317, by Representatives Ahern, Lantz, Lovick, Darneille, Chase, Williams, Hunter, Clibborn, Kilmer, Hudgins, Ericks, Simpson, Conway, Takko and Morrell

Changing provisions relating to driving under the influence of intoxicating liquor or any drug.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 46.61.502 and 1998 c 213 s 3 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if: (a) The person has four or more prior offenses within seven years as defined in RCW 46.61.5055; or (b) the person has ever previously been convicted of vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), or vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b).

Sec. 2. RCW 46.61.504 and 1998 c 213 s 5 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(b) or (c) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if: (a) The person has four or more prior offenses within seven years as defined in RCW 46.61.5055; or (b) the person has ever previously been convicted of vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), or vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b).

Sec. 3. RCW 46.61.5055 and 2004 c 95 s 13 are each amended to read as follows:

(1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than two days nor more than one year. Two consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has one prior offense within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than thirty days nor more than one year and sixty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Thirty days of imprisonment and sixty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than forty-five days nor more than one year and ninety days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has two or ((~~more~~)) three prior offenses within seven years shall be punished as follows:

(a) In the case of a person whose alcohol concentration was less than 0.15, or for whom for reasons other than the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than ninety days nor more than one year and one hundred twenty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Ninety days of imprisonment and one hundred twenty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand dollars nor more than five thousand dollars. One thousand dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; or

(b) In the case of a person whose alcohol concentration was at least 0.15, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than one hundred twenty days nor more than one year and one hundred fifty days of electronic home monitoring. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than one thousand five hundred dollars nor more than five thousand dollars. One thousand five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent.

(4) A person who is convicted of a violation of RCW 46.61.502 or 46.61.504 and who has four or more prior offenses within seven years, or who has ever previously been convicted of a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug or RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug, shall be punished in accordance with chapter 9.94A RCW.

(5) If a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 committed the offense while a

passenger under the age of sixteen was in the vehicle, the court shall:

(a) In any case in which the installation and use of an interlock or other device is not mandatory under RCW 46.20.720 or other law, order the use of such a device for not less than sixty days following the restoration of the person's license, permit, or nonresident driving privileges; and

(b) In any case in which the installation and use of such a device is otherwise mandatory, order the use of such a device for an additional sixty days.

((~~(5)~~)) (6) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider the following:

(a) Whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property; and

(b) Whether at the time of the offense the person was driving or in physical control of a vehicle with one or more passengers.

((~~(6)~~)) (7) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

((~~(7)~~)) (8) The license, permit, or nonresident privilege of a person convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs must:

(a) If the person's alcohol concentration was less than 0.15, or if for reasons other than the person's refusal to take a test offered under RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) Where there has been no prior offense within seven years, be suspended or denied by the department for ninety days;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for two years; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for three years;

(b) If the person's alcohol concentration was at least 0.15:

(i) Where there has been no prior offense within seven years, be revoked or denied by the department for one year;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for nine hundred days; or

(iii) Where there have been two or more prior offenses within seven years, be revoked or denied by the department for four years; or

(c) If by reason of the person's refusal to take a test offered under RCW 46.20.308, there is no test result indicating the person's alcohol concentration:

(i) Where there have been no prior offenses within seven years, be revoked or denied by the department for two years;

(ii) Where there has been one prior offense within seven years, be revoked or denied by the department for three years; or

(iii) Where there have been two or more previous offenses within seven years, be revoked or denied by the department for four years.

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

For purposes of this subsection ((~~(7)~~)) (8), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

((~~(8)~~)) (9) After expiration of any period of suspension, revocation, or denial of the offender's license, permit, or privilege to drive required by this section, the department shall place the offender's driving privilege in probationary status pursuant to RCW 46.20.355.

((~~(9)~~)) (10)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding five years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, installation of an ignition interlock device on the probationer's motor vehicle, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a)(i), (ii), or (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

((~~(10)~~)) (11) A court may waive the electronic home monitoring requirements of this chapter when:

(a) The offender does not have a dwelling, telephone service, or any other necessity to operate an electronic home monitoring system;

(b) The offender does not reside in the state of Washington; or

(c) The court determines that there is reason to believe that the offender would violate the conditions of the electronic home monitoring penalty.

Whenever the mandatory minimum term of electronic home monitoring is waived, the court shall state in writing the reason for granting the waiver and the facts upon which the waiver is based, and shall impose an alternative sentence with similar punitive consequences. The alternative sentence may include, but is not limited to, additional jail time, work crew, or work camp.

Whenever the combination of jail time and electronic home monitoring or alternative sentence would exceed three hundred sixty- five days, the offender shall serve the jail portion of the sentence first, and the electronic home monitoring or alternative portion of the sentence shall be reduced so that the combination does not exceed three hundred sixty-five days.

((~~(11)~~)) (12) An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728(4).

((~~(12)~~)) (13) For purposes of this section and RCW 46.61.502 and 46.61.504:

(a) A "prior offense" means any of the following:

(i) A conviction for a violation of RCW 46.61.502 or an equivalent local ordinance;

(ii) A conviction for a violation of RCW 46.61.504 or an equivalent local ordinance;

(iii) A conviction for a violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug;

(iv) A conviction for a violation of RCW 46.61.522 committed while under the influence of intoxicating liquor or any drug;

(v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

(vi) An out-of-state conviction for a violation that would have been a violation of (a)(i), (ii), (iii), (iv), or (v) of this subsection if committed in this state;

(vii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.502, 46.61.504, or an equivalent local ordinance; or

(viii) A deferred prosecution under chapter 10.05 RCW granted in a prosecution for a violation of RCW 46.61.5249, or an equivalent local ordinance, if the charge under which the deferred prosecution was granted was originally filed as a violation of RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522; and

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years of the arrest for the current offense.

NEW SECTION. **Sec. 4.** A new section is added to chapter 9.94A RCW to read as follows:

(1) When sentencing an offender convicted of a violation of RCW 46.61.502(6) or 46.61.504(6), the court, in addition to imposing the provisions of this chapter, shall order the offender to undergo alcohol or chemical dependency treatment services during incarceration. The offender shall be liable for the cost of treatment unless the court finds the offender indigent and no third-party insurance coverage is available.

(2) The provisions under RCW 46.61.5055 (8) and (9) regarding the suspension, revocation, or denial of the offender's license, permit, or nonresident privilege to drive shall apply to an offender convicted of a violation of RCW 46.61.502(6) or 46.61.504(6).

(3) The provisions under RCW 46.20.720 and 46.61.5055(5) regarding ignition interlock devices shall apply to an offender convicted of a violation of RCW 46.61.502(6) or 46.61.504(6).

Sec. 5. RCW 9.94A.030 and 2005 c 436 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the community subject to controls placed on the offender's movement and activities by the department. For offenders placed on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850, for crimes committed on or after July 1, 2000.

(7) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(8) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

(9) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(10) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(11) "Confinement" means total or partial confinement.

(12) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(13) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(14) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(15) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the

offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(21) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(22) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(24) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), ((~~or~~)) felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(25) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(26) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(27) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(28) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(29) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988,

through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.

(30) "Nonviolent offense" means an offense which is not a violent offense.

(31) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(32) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

(33) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (33)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(34) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(35) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(36) "Public school" has the same meaning as in RCW 28A.150.010.

(37) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(38) "Risk assessment" means the application of an objective instrument supported by research and adopted by the department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.

(39) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(40) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(41) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(11);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.070 or 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(42) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(43) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(44) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(45) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(46) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(47) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(48) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(49) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

(50) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(51) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 6. RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the community subject to controls placed on the offender's movement and activities by the department. For offenders placed on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850, for crimes committed on or after July 1, 2000.

(7) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(8) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(9) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(10) "Confinement" means total or partial confinement.

(11) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(12) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

(13) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

(14) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(15) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(16) "Department" means the department of corrections.

(17) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(18) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(19) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(20) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(21) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(22) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(23) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), ((~~or~~)) felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(24) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(25) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(26) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(27) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(28) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.

(29) "Nonviolent offense" means an offense which is not a violent offense.

(30) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(31) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

(32) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (32)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(33) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(34) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(35) "Risk assessment" means the application of an objective instrument supported by research and adopted by the department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.

(36) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(37) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(38) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(11);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.070 or 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(39) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(40) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(41) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(42) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(43) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(44) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(45) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;
(vi) Kidnapping in the second degree;
(vii) Arson in the second degree;
(viii) Assault in the second degree;
(ix) Assault of a child in the second degree;
(x) Extortion in the first degree;
(xi) Robbery in the second degree;
(xii) Drive-by shooting;
(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and
(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;
(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and
(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.
(46) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.
(47) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.
(48) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 7. RCW 9.94A.505 and 2002 c 290 s 17, 2002 c 289 s 6, and 2002 c 175 s 6 are each reenacted and amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.
(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:
(i) Unless another term of confinement applies, the court shall impose a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;
(ii) RCW 9.94A.700 and 9.94A.705, relating to community placement;
(iii) RCW 9.94A.710 and 9.94A.715, relating to community custody;
(iv) RCW 9.94A.545, relating to community custody for offenders whose term of confinement is one year or less;
(v) RCW 9.94A.570, relating to persistent offenders;
(vi) RCW 9.94A.540, relating to mandatory minimum terms;
(vii) RCW 9.94A.650, relating to the first-time offender waiver;
(viii) RCW 9.94A.660, relating to the drug offender sentencing alternative;
(ix) RCW 9.94A.670, relating to the special sex offender sentencing alternative;
(x) RCW 9.94A.712, relating to certain sex offenses;
(xi) RCW 9.94A.535, relating to exceptional sentences;
(xii) RCW 9.94A.589, relating to consecutive and concurrent sentences;
(xiii) Section 4 of this act, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; until July 1, 2000, a term of community supervision not to exceed one year and on and after July 1, 2000, a term of community custody not to exceed one year, subject to conditions and sanctions as authorized in RCW 9.94A.710 (2) and (3); and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.
(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.
(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.
(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community supervision, community placement, or community custody which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.
(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.
(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.
(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.
(9) The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment must be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate.
(10) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.
(11) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may, as part of any term of community supervision, community placement, or community custody, order the offender to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

Sec. 8. RCW 9.94A.525 and 2002 c 290 s 3 and 2002 c 107 s 3 are each reenacted and amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:
The offender score is the sum of points accrued under this section rounded down to the nearest whole number.
(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is

being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions of felony driving while under the influence of intoxicating liquor or any drug, felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, and serious traffic offenses shall be included in the offender score if: (i) The prior convictions were committed within five years since the last date of release from confinement (including full-time residential treatment) or entry of judgment and sentence; or (ii) the prior convictions would be considered "prior offenses within seven years" as defined in RCW 46.61.5055.

(f) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11) or (12) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and ½ point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), or (12) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and ½ point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and ½ point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and ½ point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and ½ point for each juvenile prior conviction.

(12) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(13) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as ½ point.

(14) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as ½ point.

(15) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(16) If the present conviction is for a sex offense, count priors as in subsections (7) through (15) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(17) If the present conviction is for an offense committed while the offender was under community placement, add one point.

(18) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Accordingly, prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions.

Sec. 9. RCW 9.94A.640 and 1987 c 486 s 7 are each amended to read as follows:

(1) Every offender who has been discharged under RCW 9.94A.637 may apply to the sentencing court for a vacation of the offender's record of conviction. If the court finds the offender meets the tests prescribed in subsection (2) of this section, the court may clear the record of conviction by: (a) Permitting the offender to withdraw the offender's plea of guilty and to enter a plea of not guilty; or (b) if the offender has been convicted after a plea of not guilty, by the court setting aside the verdict of guilty; and (c) by the court dismissing the information or indictment against the offender.

(2) An offender may not have the record of conviction cleared if: (a) There are any criminal charges against the offender pending in any court of this state or another state, or in any federal court; (b) the offense was a violent offense as defined in RCW 9.94A.030; (c) the offense was a crime against persons as defined in RCW 43.43.830; (d) the offender has been convicted of a new crime in this state, another state, or federal court since the date of the offender's discharge under RCW 9.94A.637; (e) the offense is a class B felony and less than ten years have passed since the date the applicant was discharged under RCW 9.94A.637; ((~~and~~)) (f) the offense was a class C felony, other than a class C felony described in RCW 46.61.502(6) or 46.61.504(6), and less than five years have passed since the date the applicant was discharged under RCW 9.94A.637; or (g) the offense was a class C felony described in RCW 46.61.502(6) or 46.61.504(6) and less than seven years have passed since the applicant was discharged under RCW 9.94A.637.

(3) Once the court vacates a record of conviction under subsection (1) of this section, the fact that the offender has been convicted of the offense shall not be included in the offender's criminal history for purposes of determining a sentence in any subsequent conviction, and the offender shall be released from all penalties and disabilities resulting from the offense. For all purposes, including responding to questions on employment applications, an offender whose conviction has been vacated may state that the offender has never been convicted of that crime. Nothing in this section affects or prevents the use of an offender's prior conviction in a later criminal prosecution.

Sec. 10. RCW 9.94A.650 and 2002 c 175 s 9 are each amended to read as follows:

(1) This section applies to offenders who have never been previously convicted of a felony in this state, federal court, or another state, and who have never participated in a program of deferred prosecution for a felony, and who are convicted of a felony that is not:

(a) Classified as a violent offense or a sex offense under this chapter;

(b) Manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or flunitrazepam classified in Schedule IV;

(c) Manufacture, delivery, or possession with intent to deliver a methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2); ((~~or~~))

(d) The selling for profit of any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana; or

(e) Felony driving while under the influence of intoxicating liquor or any drug or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(2) In sentencing a first-time offender the court may waive the imposition of a sentence within the standard sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include a term of community supervision or community custody as specified in subsection (3) of this section, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

(a) Devote time to a specific employment or occupation;

(b) Undergo available outpatient treatment for up to the period specified in subsection (3) of this section, or inpatient treatment not to exceed the standard range of confinement for that offense;

(c) Pursue a prescribed, secular course of study or vocational training;

(d) Remain within prescribed geographical boundaries and notify the community corrections officer prior to any change in the offender's address or employment;

(e) Report as directed to a community corrections officer; or

(f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community restitution work.

(3) The terms and statuses applicable to sentences under subsection (2) of this section are:

(a) For sentences imposed on or after July 25, 1999, for crimes committed before July 1, 2000, up to one year of community supervision. If treatment is ordered, the period of community supervision may include up to the period of treatment, but shall not exceed two years; and

(b) For crimes committed on or after July 1, 2000, up to one year of community custody unless treatment is ordered, in which case the period of community custody may include up to the period of treatment, but shall not exceed two years. Any term of community custody imposed under this section is subject to conditions and sanctions as authorized in this section and in RCW 9.94A.715 (2) and (3).

(4) The department shall discharge from community supervision any offender sentenced under this section before July 25, 1999, who has served at least one year of community supervision and has completed any treatment ordered by the court.

Sec. 11. RCW 9.94A.660 and 2005 c 460 s 1 are each amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender is convicted of a felony that is not a felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6);

(c) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

((~~(c)~~)) (d) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

((~~(d)~~)) (e) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

((~~(e)~~)) (f) The standard sentence range for the current offense is greater than one year; and

((~~(f)~~)) (g) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a sentence under this section may be made by the court, the offender, or the state. If the sentencing court determines that the offender is eligible for this alternative, the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:

(a) Whether the offender suffers from drug addiction;

(b) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(c) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and

(d) Whether the offender and the community will benefit from the use of the alternative.

(3) The examination report must contain:

(a) Information on the issues required to be addressed in subsection (2) of this section; and

(b) A proposed treatment plan that must, at a minimum, contain:

(i) A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;

(ii) The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;

(iii) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

(iv) Recommended crime-related prohibitions and affirmative conditions.

(4) After receipt of the examination report, if the court determines that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under subsection (5) of this section or a residential chemical dependency treatment-based alternative under subsection (6) of this section. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(5) The prison-based alternative shall include:

(a) A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections;

(b) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

(c) Crime-related prohibitions including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.715 to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

(6) The residential chemical dependency treatment-based alternative shall include:

(a) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under subsection (3)(b) of this section. The department may impose conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7), 9.94A.737, and 9.94A.740. The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

(b) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:

(i) Authorize the department to terminate the offender's community custody status on the expiration date determined under (a) of this subsection; or

(ii) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(iii) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under RCW 9.94A.715;

(c) If the court imposes a term of total confinement under (b)(iii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

(7) If the court imposes a sentence under this section, the court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court may impose any of the following conditions:

(a) Devote time to a specific employment or training;

(b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;

(c) Report as directed to a community corrections officer;

(d) Pay all court-ordered legal financial obligations;

(e) Perform community restitution work;

(f) Stay out of areas designated by the sentencing court;

(g) Such other conditions as the court may require such as affirmative conditions.

(8)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the terms of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

(9) If an offender sentenced to the prison-based alternative under subsection (5) of this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

(10) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

(11) Costs of examinations and preparing treatment plans under subsections (2) and (3) of this section may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.

Sec. 12. RCW 9.94A.690 and 2000 c 28 s 21 are each amended to read as follows:

(1)(a) An offender is eligible to be sentenced to a work ethic camp if the offender:

(i) Is sentenced to a term of total confinement of not less than twelve months and one day or more than thirty-six months;

(ii) Has no current or prior convictions for any sex offenses or for violent offenses; and

(iii) Is not currently subject to a sentence for, or being prosecuted for, a violation of felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), a violation of physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), a violation of the uniform controlled substances act, or a criminal solicitation to commit such a violation under chapter 9A.28 or 69.50 RCW.

(b) The length of the work ethic camp shall be at least one hundred twenty days and not more than one hundred eighty days.

(2) If the sentencing court determines that the offender is eligible for the work ethic camp and is likely to qualify under subsection (3) of this section, the judge shall impose a sentence within the standard sentence range and may recommend that the offender serve the sentence at a work ethic camp. In sentencing an offender to the work ethic camp, the court shall specify: (a) That upon completion of the work ethic camp the offender shall be released on community custody for any remaining time of total confinement; (b) the applicable conditions of supervision on community custody status as required by RCW 9.94A.700(4) and authorized by RCW 9.94A.700(5); and (c) that violation of the conditions may result in a return to total confinement for the balance of the offender's remaining time of confinement.

(3) The department shall place the offender in the work ethic camp program, subject to capacity, unless: (a) The department determines that the offender has physical or mental impairments that would prevent participation and completion of the program; (b) the department determines that the offender's custody level prevents placement in the program; (c) the offender refuses to agree to the terms and conditions of the program; (d) the offender has been found by the United States attorney general to be subject to a deportation detainer or order; or (e) the offender has participated in the work ethic camp program in the past.

(4) An offender who fails to complete the work ethic camp program, who is administratively terminated from the program, or who otherwise violates any conditions of supervision, as defined by the department, shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court and shall be subject to all rules relating to earned release time.

(5) During the last two weeks prior to release from the work ethic camp program the department shall provide the offender with comprehensive transition training.

Sec. 13. RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Rape 1 (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083)
	Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
	Kidnapping 1 (RCW 9A.40.020)
	Leading Organized Crime (RCW 9A.82.060(1)(a))

Malicious explosion 3 (RCW 70.74.280(3))

Sexually Violent Predator Escape (RCW 9A.76.115)

IX Assault of a Child 2 (RCW 9A.36.130)

Explosive devices prohibited (RCW 70.74.180)

Hit and Run--Death (RCW 46.52.020(4)(a))

Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)

Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))

Malicious placement of an explosive 2 (RCW 70.74.270(2))

Robbery 1 (RCW 9A.56.200)

Sexual Exploitation (RCW 9.68A.040)

Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)

VIII Arson 1 (RCW 9A.48.020)

Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)

Manslaughter 2 (RCW 9A.32.070)

Promoting Prostitution 1 (RCW 9A.88.070)

Theft of Ammonia (RCW 69.55.010)

Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)

VII Burglary 1 (RCW 9A.52.020)

Child Molestation 2 (RCW 9A.44.086)

Civil Disorder Training (RCW 9A.48.120)

Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)

Drive-by Shooting (RCW 9A.36.045)

Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)

Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))

Introducing Contraband 1 (RCW 9A.76.140)

Malicious placement of an explosive 3 (RCW 70.74.270(3))

Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)

Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)

Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))

Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)

Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)

VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))

Bribery (RCW 9A.68.010)

Incest 1 (RCW 9A.64.020(1))

Intimidating a Judge (RCW 9A.72.160)

Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)

Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))

Rape of a Child 3 (RCW 9A.44.079)

Theft of a Firearm (RCW 9A.56.300)

Unlawful Storage of Ammonia (RCW 69.55.020)

V Abandonment of dependent person 1 (RCW 9A.42.060)

Advancing money or property for extortionate extension of credit (RCW 9A.82.030)

Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))

Child Molestation 3 (RCW 9A.44.089)

Criminal Mistreatment 1 (RCW 9A.42.020)

Custodial Sexual Misconduct 1 (RCW 9A.44.160)

Domestic Violence Court Order Violation (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)

Driving While Under the Influence (RCW 46.61.502(6))

Extortion 1 (RCW 9A.56.120)

Extortionate Extension of Credit (RCW 9A.82.020)

Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)

Incest 2 (RCW 9A.64.020(2))

Kidnapping 2 (RCW 9A.40.030)

Perjury 1 (RCW 9A.72.020)

Persistent prison misbehavior (RCW 9.94.070)

Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))

Possession of a Stolen Firearm (RCW 9A.56.310)

Rape 3 (RCW 9A.44.060)

Rendering Criminal Assistance 1 (RCW 9A.76.070)

Sexual Misconduct with a Minor 1 (RCW 9A.44.093)

Sexually Violating Human Remains (RCW 9A.44.105)

Stalking (RCW 9A.46.110)

Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)

IV Arson 2 (RCW 9A.48.030)

Assault 2 (RCW 9A.36.021)

Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))

Assault by Watercraft (RCW 79A.60.060)

Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)

Cheating 1 (RCW 9.46.1961)

Commercial Bribery (RCW 9A.68.060)

Counterfeiting (RCW 9.16.035(4))

Endangerment with a Controlled Substance (RCW 9A.42.100)

Escape 1 (RCW 9A.76.110)

Hit and Run--Injury (RCW 46.52.020(4)(b))

Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))

Identity Theft 1 (RCW 9.35.020(2))

Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)

Influencing Outcome of Sporting Event (RCW 9A.82.070)

Malicious Harassment (RCW 9A.36.080)

Residential Burglary (RCW 9A.52.025)

Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Threats to Bomb (RCW 9.61.160)

Trafficking in Stolen Property 1 (RCW 9A.82.050)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))

Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))

Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))

Unlawful transaction of insurance business (RCW 48.15.023(3))

Unlicensed practice as an insurance professional (RCW 48.17.063(3))

Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))

Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)

Willful Failure to Return from Furlough (RCW 72.66.060)

III Abandonment of dependent person 2 (RCW 9A.42.070)

Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))

Assault of a Child 3 (RCW 9A.36.140)

Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))

Burglary 2 (RCW 9A.52.030)

Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

Criminal Gang Intimidation (RCW 9A.46.120)

Criminal Mistreatment 2 (RCW 9A.42.030)

Custodial Assault (RCW 9A.36.100)

Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

Harassment (RCW 9A.46.020)

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

Malicious Injury to Railroad Property (RCW 81.60.070)

Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)

Patronizing a Juvenile Prostitute (RCW 9.68A.100)

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

Promoting Prostitution 2 (RCW 9A.88.080)

Securities Act violation (RCW 21.20.400)

Tampering with a Witness (RCW 9A.72.120)

Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))

Theft of Livestock 2 (RCW 9A.56.083)

Trafficking in Stolen Property 2 (RCW 9A.82.055)

Unlawful Imprisonment (RCW 9A.40.040)

Unlawful possession of firearm in the second degree (RCW 9.41.040(2))

Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)

Willful Failure to Return from Work Release (RCW 72.65.070)

II Computer Trespass 1 (RCW 9A.52.110)

Counterfeiting (RCW 9.16.035(3))

Escape from Community Custody (RCW 72.09.310)

Health Care False Claims (RCW 48.80.030)

Identity Theft 2 (RCW 9.35.020(3))

Improperly Obtaining Financial Information (RCW 9.35.010)

Malicious Mischief 1 (RCW 9A.48.070)

Possession of Stolen Property 1 (RCW 9A.56.150)

Theft 1 (RCW 9A.56.030)

Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))

Trafficking in Insurance Claims (RCW 48.30A.015)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))

Unlawful Practice of Law (RCW 2.48.180)

Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))

I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)

False Verification for Welfare (RCW 74.08.055)

Forgery (RCW 9A.60.020)

Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)

Malicious Mischief 2 (RCW 9A.48.080)

Mineral Trespass (RCW 78.44.330)

Possession of Stolen Property 2 (RCW 9A.56.160)

Reckless Burning 1 (RCW 9A.48.040)

Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)

Theft 2 (RCW 9A.56.040)

Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))

Transaction of insurance business beyond the scope of licensure (RCW 48.17.063(4))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW 9.91.144)

Vehicle Prowl 1 (RCW 9A.52.095)

Sec. 14. RCW 9.94A.411 and 2000 c 119 s 28 and 2000 c 28 s 17 are each reenacted and amended to read as follows:

(1) Decision not to prosecute.

STANDARD: A prosecuting attorney may decline to prosecute, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

GUIDELINE/COMMENTARY:

Examples

The following are examples of reasons not to prosecute which could satisfy the standard.

(a) Contrary to Legislative Intent - It may be proper to decline to charge where the application of criminal sanctions would be clearly contrary to the intent of the legislature in enacting the particular statute.

(b) Antiquated Statute - It may be proper to decline to charge where the statute in question is antiquated in that:

(i) It has not been enforced for many years; and

(ii) Most members of society act as if it were no longer in existence; and

(iii) It serves no deterrent or protective purpose in today's society; and

(iv) The statute has not been recently reconsidered by the legislature.

This reason is not to be construed as the basis for declining cases because the law in question is unpopular or because it is difficult to enforce.

(c) De Minimis Violation - It may be proper to decline to charge where the violation of law is only technical or insubstantial and where no public interest or deterrent purpose would be served by prosecution.

(d) Confinement on Other Charges - It may be proper to decline to charge because the accused has been sentenced on another charge to a lengthy period of confinement; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iii) Conviction of the new offense would not serve any significant deterrent purpose.

(e) Pending Conviction on Another Charge - It may be proper to decline to charge because the accused is facing a pending prosecution in the same or another county; and

(i) Conviction of the new offense would not merit any additional direct or collateral punishment;

(ii) Conviction in the pending prosecution is imminent;

(iii) The new offense is either a misdemeanor or a felony which is not particularly aggravated; and

(iv) Conviction of the new offense would not serve any significant deterrent purpose.

(f) High Disproportionate Cost of Prosecution - It may be proper to decline to charge where the cost of locating or transporting, or the burden on, prosecution witnesses is highly disproportionate to the importance of prosecuting the offense in question. This reason should be limited to minor cases and should not be relied upon in serious cases.

(g) Improper Motives of Complainant - It may be proper to decline charges because the motives of the complainant are improper and prosecution would serve no public purpose, would defeat the underlying purpose of the law in question or would result in decreased respect for the law.

(h) Immunity - It may be proper to decline to charge where immunity is to be given to an accused in order to prosecute another where the accused's information or testimony will reasonably lead to the conviction of others who are responsible for more serious criminal conduct or who represent a greater danger to the public interest.

(i) Victim Request - It may be proper to decline to charge because the victim requests that no criminal charges be filed and the case involves the following crimes or situations:

(i) Assault cases where the victim has suffered little or no injury;

(ii) Crimes against property, not involving violence, where no major loss was suffered;

(iii) Where doing so would not jeopardize the safety of society.

Care should be taken to insure that the victim's request is freely made and is not the product of threats or pressure by the accused.

The presence of these factors may also justify the decision to dismiss a prosecution which has been commenced.

Notification

The prosecutor is encouraged to notify the victim, when practical, and the law enforcement personnel, of the decision not to prosecute.

(2) Decision to prosecute.

(a) STANDARD:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid prefiling agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be provided pursuant to RCW 9.94A.670.

Crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

See table below for the crimes within these categories.

CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

CRIMES AGAINST PERSONS

Aggravated Murder

1st Degree Murder

2nd Degree Murder

1st Degree Manslaughter

2nd Degree Manslaughter
1st Degree Kidnapping
2nd Degree Kidnapping
1st Degree Assault
2nd Degree Assault
3rd Degree Assault
1st Degree Assault of a Child
2nd Degree Assault of a Child
3rd Degree Assault of a Child
1st Degree Rape
2nd Degree Rape
3rd Degree Rape
1st Degree Rape of a Child
2nd Degree Rape of a Child
3rd Degree Rape of a Child
1st Degree Robbery
2nd Degree Robbery
1st Degree Arson
1st Degree Burglary
1st Degree Extortion
2nd Degree Extortion
Indecent Liberties
Incest
Vehicular Homicide
Vehicular Assault
1st Degree Child Molestation
2nd Degree Child Molestation
3rd Degree Child Molestation
1st Degree Promoting Prostitution
Intimidating a Juror
Communication with a Minor
Intimidating a Witness
Intimidating a Public Servant
Bomb Threat (if against person)
Unlawful Imprisonment
Promoting a Suicide Attempt
Riot (if against person)
Stalking
Custodial Assault
Domestic Violence Court Order Violation (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)
Counterfeiting (if a violation of RCW 9.16.035(4))
Felony Driving a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug (RCW 46.61.502(6))
Felony Physical Control of a Motor Vehicle While Under the Influence of Intoxicating Liquor or Any Drug (RCW 46.61.504(6))
CRIMES AGAINST PROPERTY/OTHER CRIMES
2nd Degree Arson
1st Degree Escape
2nd Degree Escape
2nd Degree Burglary
1st Degree Theft
2nd Degree Theft
1st Degree Perjury
2nd Degree Perjury
1st Degree Introducing Contraband
2nd Degree Introducing Contraband
1st Degree Possession of Stolen Property
2nd Degree Possession of Stolen Property
Bribery
Bribing a Witness
Bribe received by a Witness
Bomb Threat (if against property)
1st Degree Malicious Mischief
2nd Degree Malicious Mischief
1st Degree Reckless Burning
Taking a Motor Vehicle without Authorization
Forgery
2nd Degree Promoting Prostitution
Tampering with a Witness
Trading in Public Office
Trading in Special Influence
Receiving/Granting Unlawful Compensation
Bigamy
Eluding a Pursuing Police Vehicle
Willful Failure to Return from Furlough
Escape from Community Custody
Riot (if against property)
1st Degree Theft of Livestock
2nd Degree Theft of Livestock
ALL OTHER UNCLASSIFIED FELONIES
Selection of Charges/Degree of Charge

(i) The prosecutor should file charges which adequately describe the nature of defendant's conduct. Other offenses may be charged only if they are necessary to ensure that the charges:

(A) Will significantly enhance the strength of the state's case at trial; or

(B) Will result in restitution to all victims.

(ii) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

(A) Charging a higher degree;

(B) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a defendant's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

(b) GUIDELINES/COMMENTARY:

(i) Police Investigation

A prosecuting attorney is dependent upon law enforcement agencies to conduct the necessary factual investigation which must precede the decision to prosecute. The prosecuting attorney shall ensure that a thorough factual investigation has been conducted before a decision to prosecute is made. In ordinary circumstances the investigation should include the following:

(A) The interviewing of all material witnesses, together with the obtaining of written statements whenever possible;

(B) The completion of necessary laboratory tests; and

(C) The obtaining, in accordance with constitutional requirements, of the suspect's version of the events.

If the initial investigation is incomplete, a prosecuting attorney should insist upon further investigation before a decision to prosecute is made, and specify what the investigation needs to include.

(ii) Exceptions

In certain situations, a prosecuting attorney may authorize filing of a criminal complaint before the investigation is complete if:

(A) Probable cause exists to believe the suspect is guilty; and

(B) The suspect presents a danger to the community or is likely to flee if not apprehended; or

(C) The arrest of the suspect is necessary to complete the investigation of the crime.

In the event that the exception to the standard is applied, the prosecuting attorney shall obtain a commitment from the law enforcement agency involved to complete the investigation in a timely manner. If the subsequent investigation does not produce sufficient evidence to meet the normal charging standard, the complaint should be dismissed.

(iii) Investigation Techniques

The prosecutor should be fully advised of the investigatory techniques that were used in the case investigation including:

(A) Polygraph testing;

(B) Hypnosis;

(C) Electronic surveillance;

(D) Use of informants.

(iv) Pre-Filing Discussions with Defendant

Discussions with the defendant or his/her representative regarding the selection or disposition of charges may occur prior to the filing of charges, and potential agreements can be reached.

(v) Pre-Filing Discussions with Victim(s)

Discussions with the victim(s) or victims' representatives regarding the selection or disposition of charges may occur before the filing of charges. The discussions may be considered by the prosecutor in charging and disposition decisions, and should be considered before reaching any agreement with the defendant regarding these decisions.

Sec. 15. RCW 13.40.0357 and 2004 c 117 s 1 are each amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
. . . . .		
	Arson and Malicious Mischief	
A	Arson 1 (9A.48.020)	B +
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090(2) (a) and (c))	E
E	Malicious Mischief 3 (9A.48.090(2)(b))	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B +
	Assault and Other Crimes Involving Physical Harm	
A	Assault 1 (9A.36.011)	B +
B +	Assault 2 (9A.36.021)	C +
C +	Assault 3 (9A.36.031)	D +
D +	Assault 4 (9A.36.041)	E
B +	Drive-By Shooting (9A.36.045)	C +
D +	Reckless Endangerment (9A.36.050)	E
C +	Promoting Suicide Attempt (9A.36.060)	D +
D +	Coercion (9A.36.070)	E
C +	Custodial Assault (9A.36.100)	D +
	Burglary and Trespass	
B +	Burglary 1 (9A.52.020)	C +
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E
	Drugs	
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C +	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D +
E	Possession of Legend Drug (69.41.030(2)(b))	E
B +	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B +
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Marihuana <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C +	Sale of Controlled Substance for Profit (69.50.410)	C +
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
	Firearms and Weapons	
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E

C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(iii))	C
D +	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
	Homicide	
A +	Murder 1 (9A.32.030)	A
A +	Murder 2 (9A.32.050)	B +
B +	Manslaughter 1 (9A.32.060)	C +
C +	Manslaughter 2 (9A.32.070)	D +
B +	Vehicular Homicide (46.61.520)	C +
	Kidnapping	
A	Kidnap 1 (9A.40.020)	B +
B +	Kidnap 2 (9A.40.030)	C +
C +	Unlawful Imprisonment (9A.40.040)	D +
	Obstructing Governmental Operation	
D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B +	Intimidating a Public Servant (9A.76.180)	C +
B +	Intimidating a Witness (9A.72.110)	C +
	Public Disturbance	
C +	Riot with Weapon (9A.84.010(2)(b))	D +
D +	Riot Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	Sex Crimes	
A	Rape 1 (9A.44.040)	B +
A-	Rape 2 (9A.44.050)	B +
C +	Rape 3 (9A.44.060)	D +
A-	Rape of a Child 1 (9A.44.073)	B +
B +	Rape of a Child 2 (9A.44.076)	C +
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D +	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	`E
B +	Promoting Prostitution 1 (9A.88.070)	C +
C +	Promoting Prostitution 2 (9A.88.080)	D +
E	O & A (Prostitution) (9A.88.030)	E
B +	Indecent Liberties (9A.44.100)	C +
A-	Child Molestation 1 (9A.44.083)	B +
B	Child Molestation 2 (9A.44.086)	C +
	Theft, Robbery, Extortion, and Forgery	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B +
B +	Robbery 2 (9A.56.210)	C +
B +	Extortion 1 (9A.56.120)	C +
C +	Extortion 2 (9A.56.130)	D +
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
C	Taking Motor Vehicle Without Permission 1 and 2 (9A.56.070 and 9A.56.075)	D
	Motor Vehicle Related Crimes	
E	Driving Without a License (46.20.005)	E
B +	Hit and Run - Death (46.52.020(4)(a))	C +
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B

B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
	Other	
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1[1] (9A.76.110)	C
C	Escape 2[1] (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B +
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)2	V

1Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:
1st escape or attempted escape during 12-month period - 4 weeks confinement
2nd escape or attempted escape during 12-month period - 8 weeks confinement
3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

[2]If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, D, or RCW 13.40.167.

OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE

A +	180 WEEKS TO AGE 21 YEARS			
A	103 WEEKS TO 129 WEEKS			
A-	15-36 WEEKS EXCEPT	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS

		30-40 WEEKS FOR 15-17 YEAR OLDS				
Current Offense Category	B +	15-36 WEEKS		52-65 WEEKS	80-100 WEEKS	103-129 WEEKS
	B	LOCAL SANCTIONS (LS)		15-36 WEEKS		52-65 WEEKS
	C +	LS			15-36 WEEKS	
	C	LS				15-36 WEEKS
			Local Sanctions:			
			0 to 30 Days			
	D +	LS	0 to 12 Months Community Supervision			
			0 to 150 Hours Community Restitution			
	D	LS	$0 to $500 Fine			
	E	LS				
		0	1	2	3	4 or more

PRIOR ADJUDICATIONS

NOTE: References in the grid to days or weeks mean periods of confinement.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR
OPTION B
SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender is:

(a) Adjudicated of an A + offense;

(b) Fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060); or

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential burglary (RCW

9A.52.025), burglary in the second degree (RCW 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a witness (RCW 9A.72.110), violation of the uniform controlled substances act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Ordered to serve a disposition for a firearm violation under RCW 13.40.193; or

(d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

OR
OPTION C
CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B + offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

OR
OPTION D
MANIFEST INJUSTICE

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

Sec. 16. RCW 46.20.311 and 2005 c 314 s 308 are each amended to read as follows:

(1)(a) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as specifically permitted under RCW 46.20.267, 46.20.342, or other provision of law.

(b) Except for a suspension under RCW 46.20.267, 46.20.289, 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or driving privilege of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the suspension shall remain in effect until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW.

(c) If the suspension is the result of a nonfelony violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reinstatement until enrollment and participation in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502(6) or 46.61.504(6), the department shall determine the person's eligibility for licensing based upon the reports provided by the alcohol or drug dependency agency required under RCW 46.61.524 and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, and the person is required pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with a functioning ignition interlock, the department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an interlock required under RCW 46.20.720 is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(d) Whenever the license or driving privilege of any person is suspended as a result of certification of noncompliance with a child support order under chapter 74.20A RCW or a residential or visitation order, the suspension shall remain in effect until the person provides a release issued by the department of social and health services stating that the person is in compliance with the order.

(e)(i) The department shall not issue to the person a new, duplicate, or renewal license until the person pays a reissue fee of seventy-five dollars.

(ii) If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, or is the result of administrative action under RCW 46.20.308, the reissue fee shall be one hundred fifty dollars.

(2)(a) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (i) After the expiration of one year from the date the license or privilege to drive was revoked; (ii) after the expiration of the applicable revocation period provided by RCW 46.20.3101 or 46.61.5055; (iii) after the expiration of two years for persons convicted of vehicular homicide; or (iv) after the expiration of the applicable revocation period provided by RCW 46.20.265.

(b)(i) After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reissue fee in the amount of seventy-five dollars.

(ii) If the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one hundred fifty dollars. If the revocation is the result of a nonfelony violation of RCW 46.61.502 or 46.61.504, the department shall determine the person's eligibility for licensing based upon the reports provided by the alcoholism agency or probation department designated under RCW 46.61.5056 and shall deny reissuance of a license, permit, or privilege to drive until enrollment and participation in an approved program has been established and the person is otherwise qualified. If the suspension is the result of a violation of RCW 46.61.502(6) or 46.61.504(6), the department shall determine the person's eligibility for licensing based upon the reports provided by the alcohol or drug dependency agency required under RCW 46.61.524 and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified. If the revocation is the result of a violation of RCW 46.61.502 or 46.61.504, and the person is required pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device, the department shall determine the person's eligibility for licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person applying for a new license. If, following issuance of a new license, the department determines, based upon notification from the interlock provider or otherwise, that an interlock required under RCW 46.20.720 is no longer functioning, the department shall suspend the person's license or privilege to drive until the department has received written verification from an interlock provider that a functioning interlock is installed.

(c) Except for a revocation under RCW 46.20.265, the department shall not then issue a new license unless it is

satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a motor vehicle on the public highways.

(3)(a) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue to the person any new or renewal license until the person pays a reissue fee of seventy-five dollars.

(b) If the suspension is the result of a violation of the laws of this or any other state, province, or other jurisdiction involving (i) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (ii) the refusal to submit to a chemical test of the driver's blood alcohol content, the reissue fee shall be one hundred fifty dollars.

Sec. 17. RCW 46.61.524 and 2001 c 64 s 7 are each amended to read as follows:

(1) A person convicted under RCW 46.61.502(6), 46.61.504(6), 46.61.520(1)(a), or 46.61.522(1)(b) shall, as a condition of community custody imposed under RCW 9.94A.545 or community placement imposed under RCW 9.94A.660, complete a diagnostic evaluation by an alcohol or drug dependency agency approved by the department of social and health services or a qualified probation department, as defined under RCW 46.61.516 that has been approved by the department of social and health services. This report shall be forwarded to the department of licensing. If the person is found to have an alcohol or drug problem that requires treatment, the person shall complete treatment in a program approved by the department of social and health services under chapter 70.96A RCW. If the person is found not to have an alcohol or drug problem that requires treatment, he or she shall complete a course in an information school approved by the department of social and health services under chapter 70.96A RCW. The convicted person shall pay all costs for any evaluation, education, or treatment required by this section, unless the person is eligible for an existing program offered or approved by the department of social and health services. Nothing in chapter 348, Laws of 1991 requires the addition of new treatment or assessment facilities nor affects the department of social and health services use of existing programs and facilities authorized by law.

(2) As provided for under RCW 46.20.285, the department shall revoke the license, permit to drive, or a nonresident privilege of a person convicted of vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522. The department shall determine the eligibility of a person convicted of vehicular homicide under RCW 46.61.520(1)(a) or vehicular assault under RCW 46.61.522(1)(b) to receive a license based upon the report provided by the designated alcoholism treatment facility or probation department, and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified.

Sec. 18. RCW 46.61.5152 and 1998 c 41 s 9 are each amended to read as follows:

In addition to penalties that may be imposed under RCW 46.61.5055, the court may require a person who is convicted of a nonfelony violation of RCW 46.61.502 or 46.61.504 or who enters a deferred prosecution program under RCW 10.05.020 based on a nonfelony violation of RCW 46.61.502 or 46.61.504, to attend an educational program focusing on the emotional, physical, and financial suffering of victims who were injured by persons convicted of driving while under the influence of intoxicants.

Sec. 19. RCW 46.61.5151 and 1995 c 332 s 15 are each amended to read as follows:

A sentencing court may allow ((~~persons~~)) a person convicted of ((~~violating~~)) a nonfelony violation of RCW 46.61.502 or 46.61.504 to fulfill the terms of the sentence provided in RCW 46.61.5055 in nonconsecutive or intermittent time periods. However, any mandatory minimum sentence under RCW 46.61.5055 shall be served consecutively unless suspended or deferred as otherwise provided by law.

NEW SECTION. **Sec. 20.** Section 5 of this act expires July 1, 2006.

NEW SECTION. **Sec. 21.** Section 6 of this act takes effect July 1, 2006."

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

MOTION

Senator Kline moved that the following amendment by Senator Kline to the committee striking amendment be adopted.

On page 2, line 11 of the amendment, after "within" strike "seven" and insert "ten"

On page 3, line 22 of the amendment, after "within" strike "seven" and insert "ten"

On page 7, line 35 of the amendment, after "within" strike "seven" and insert "ten"

Beginning on page 12, line 17 of the amendment, strike all of section 5

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 36, line 29 of the amendment, after "within" strike "seven" and insert "ten"

On page 40, line 19 of the amendment, after "than" strike "seven" and insert "ten"

On page 78, beginning on line 1 of the amendment, strike all of sections 20 and 21, and insert the following:

"NEW SECTION. **Sec. 20.** This act takes effect July 1, 2007."

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Kline on page 2, line 11 to the committee striking amendment to House Bill No. 3117.

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary as amended to House Bill No. 3317.

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

MOTION

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

On page 1, line 3 of the title, after "drug;" strike the remainder of the title and insert "amending RCW 46.61.502, 46.61.504, 46.61.5055, 9.94A.030, 9.94A.030, 9.94A.640, 9.94A.650, 9.94A.660, 9.94A.690, 13.40.0357, 46.20.311, 46.61.524, 46.61.5152, and 46.61.5151; reenacting and amending RCW 9.94A.505, 9.94A.525, 9.94A.515, and 9.94A.411; adding a new section to chapter 9.94A RCW; prescribing penalties; providing an effective date; and providing an expiration date."

On page 78, line 6 of the title amendment, strike "9.94A.030,"

On page 78, line 10 of the title amendment, after "penalties;" strike the remainder of the title and insert "and providing an effective date."

MOTION

On motion of Senator Esser, the rules were suspended, House Bill No. 3317 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Carrell, Johnson, Brown and Brandland spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 3317 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3317 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Doumit, Eide, Esser, Fairley, Finkbeiner, Franklin, Fraser, Hargrove, Haugen, Hewitt, Honeyford, Jacobsen, Johnson, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, Morton, Mulliken, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schmidt, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Thibaudeau, Weinstein and Zarelli - 45

Excused: Senators Benson, Deccio, McCaslin and Oke - 4

HOUSE BILL NO. 3317 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, House Bill No. 3317 and Engrossed Substitute House Bill No. 2871 were immediately transmitted to the House of Representatives.

MOTION

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

INTRODUCTION AND FIRST READING

SB 6900 by Senators Esser and Johnson

AN ACT Relating to making it a felony to drive or be in physical control of a vehicle while under the influence of intoxicating liquor or any drug; amending RCW 46.61.502, 46.61.504, 46.61.5055, 9.94A.030, 9.94A.030, 9.94A.640, 9.94A.650, 9.94A.660, 9.94A.690, 13.40.0357, 46.20.311, 46.61.524, 46.61.5152, and 46.61.5151; reenacting and amending RCW 9.94A.505, 9.94A.525, 9.94A.515, and 9.94A.411; adding a new section to chapter 9.94A RCW; prescribing penalties; providing an effective date; and providing an expiration date.

Referred to Committee on Judiciary.

SB 6901 by Senator Roach

AN ACT Relating to the creation of a distinguished flying cross award license plate; adding a new section to chapter 46.04 RCW; adding a new section to chapter 46.16 RCW; and creating a new section.

Referred to Committee on Transportation.

SB 6902 by Senators Rasmussen and Brandland

AN ACT Relating to immunity from liability for health care providers during an emergency or disaster; amending RCW 4.24.300; adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.71A RCW; and creating a new section.

Referred to Committee on Health & Long-Term Care.

SCR 8423 by Senator Fairley

Creating a homeowners' association act committee.

SCR 8424 by Senators Esser and Johnson

Exempting a bill relating to driving under the influence of alcohol or drugs from the cutoff dates established in SCR 8414.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

ESHB 1672 by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Hudgins, Green, Cody, Appleton, Morrell, Wood, McCoy, Kenney, Moeller and Chase)

AN ACT Relating to reducing injuries among patients and health care workers; adding a new section to chapter 70.41 RCW; adding a new section to chapter 72.23 RCW; adding a new section to chapter 51.16 RCW; adding a new section to chapter 82.04 RCW; and creating a new section.

Referred to Committee on Appropriations.

2SHB 2462 by House Committee on Appropriations (originally sponsored by Representatives Moeller, Wallace and Roberts)

AN ACT Relating to establishing work groups to periodically review and update the child support schedule; amending RCW 26.09.173, 26.10.195, 26.18.210, and 26.19.025; adding a new section to chapter 26.19 RCW; creating new sections; and providing an expiration date.

EHB 2716 by Representatives Fromhold, Kessler, Skinner, Haigh, Strow, Moeller, Armstrong, Conway, Curtis, Murray, Buri, Green, Ericksen, Serben, McDermott, Morrell, McIntire, Appleton, Kenney, P. Sullivan, Ormsby and Linville

AN ACT Relating to nursing facility medicaid payment systems; amending RCW 74.46.020, 74.46.431, 74.46.433, 74.46.496, 74.46.501, 74.46.506, and 74.46.521; and providing an effective date.

SHB 2880 by House Committee on Finance (originally sponsored by Representative McIntire)

AN ACT Relating to insurance premiums tax; amending RCW 48.14.080; creating new sections; and declaring an emergency.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated with the exceptions of Senate Concurrent Resolution No. 8424 which was held at the desk, Senate Concurrent Resolution No. 8423, Engrossed Substitute House Bill No. 1672, Second Substitute House Bill No. 2462, Engrossed House Bill No. 2716 and Substitute House Bill No. 2880, which under suspension of the rules placed on the second reading calendar.

MOTION

At 11:30 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Wednesday, March 8, 2006.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate