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**SIXTIETH LEGISLATURE - REGULAR SESSION**

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**FIFTY SEVENTH DAY**

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House Chamber, Olympia, Monday March 10, 2008

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

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Jasper Vaughn and Mark Upton. The Speaker (Representative Morris presiding) led the Chamber in the Pledge of Allegiance. Prayer was offered by Iris Crain, Our Lady of the Sacred Earth, Olympia.

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

**RESOLUTION**

HOUSE RESOLUTION NO. 4710, By Representatives Santos, Upthegrove, Sells, Morrell, McCoy, Loomis, Linville, Kenney, Hunter, Hunt, Hasegawa, Green, Ericks, Eddy, Appleton, Nelson and Jarrett

WHEREAS, A groundbreaking new report from the Institute of Medicine (IOM) confirms the importance of meeting cancer patients' social, emotional, and psychological needs as part of their overall medical treatment of cancer; and

WHEREAS, Psychological and social support are essential parts of cancer care; and

WHEREAS, The IOM Committee set forth a standard to guide the improvement of all cancer care at the clinical level, and that all cancer care practices should have mechanisms in place to ensure that appropriate psychological and social health services are provided; and

WHEREAS, The IOM Committee recommended that the National Cancer Institute, the Centers for Medicare and Medicaid Services, and all other organizations that set standards for cancer care adopt this standard and incorporate psychological and social health into their research topics, policies, protocols, and standards; and

WHEREAS, Gilda's Club Seattle was founded to provide social and emotional support for anyone touched by cancer; and

WHEREAS, Gilda's Club Seattle is a leader in this area, offering a unique environment to share information and coping strategies through a variety of classes, workshops, and activities; and

WHEREAS, The inspiration for such a community evolved from Gilda Radner's heartfelt wish that no one should face cancer alone;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives honor Gilda's Club Seattle for its never-ending effort to ensure that all cancer patients and their families are aware of these new standards and know that support exists behind their bright red doors; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Gilda's Club Seattle.

HOUSE RESOLUTION NO. 4710 was adopted.

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

**MESSAGE FROM THE SENATE**

March 7, 2008

Mr. Speaker:

The Senate has passed SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1637 with the following amendment:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. This chapter may be cited as the revised uniform anatomical gift act.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult" means an individual who is at least eighteen years old.

(2) "Agent" means an individual:

(a) Authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or

(b) Expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Decedent" means a deceased individual whose body or part is or may be the source of an anatomical gift.

(5) "Disinterested witness" means a witness other than the spouse or state registered domestic partner, child, parent, sibling,

grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift. The term does not include a person to which an anatomical gift could pass under section 11 of this act.

(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver's license, identification card, or donor registry.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(9) "Driver's license" means a license or permit issued by the department of licensing to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) "Guardian" means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual. The term does not include a guardian ad litem.

(12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(13) "Identification card" means an identification card issued by the department of licensing.

(14) "Know" means to have actual knowledge.

(15) "Minor" means an individual who is less than eighteen years old.

(16) "Organ procurement organization" means a person designated by the secretary of the United States department of health and human services as an organ procurement organization.

(17) "Parent" means a parent whose parental rights have not been terminated.

(18) "Part" means an organ, an eye, or tissue of a human being. The term does not include the whole body.

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

(20) "Physician" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathic medicine and surgery under the law of any state.

(21) "Procurement organization" means an eye bank, organ procurement organization, or tissue bank.

(22) "Prospective donor" means an individual whose death is imminent and has been determined by a procurement organization to have a part that could be medically suitable for transplantation, therapy, research, or education. "Prospective donor" does not include an individual who has made a refusal.

(23) "Reasonable costs" include: (a) Programming and software installation and upgrades; (b) employee training that is specific to the organ and tissue donor registry or the donation program created in RCW 46.12.510; (c) literature that is specific to the organ and tissue donor registry or the donation program created in RCW 46.12.510; and (d) hardware upgrades or other issues important to the organ and tissue donor registry or the donation program created in RCW 46.12.510 that have been mutually agreed upon in advance by the department of licensing and the Washington state organ procurement organizations.

(24) "Reasonably available" means able to be contacted by a procurement organization without undue effort and willing and able to act in a timely manner consistent with existing medical criteria necessary for the making of an anatomical gift.

(25) "Recipient" means an individual into whose body a decedent's part has been or is intended to be transplanted.

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

(27) "Refusal" means a record created under section 7 of this act that expressly states an intent to bar other persons from making an anatomical gift of an individual's body or part.

(28) "Sign" means, with the present intent to authenticate or adopt a record:

(a) To execute or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(29) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(30) "Technician" means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law. The term includes an enucleator.

(31) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(32) "Tissue bank" means a person that is licensed to conduct business in this state, accredited, and regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(33) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

(34) "Washington state organ procurement organization" means an organ procurement organization that has been designated by the United States department of health and human services to coordinate organ procurement activities for any portion of Washington state.

**NEW SECTION. Sec. 3.** This chapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

**NEW SECTION. Sec. 4.** Subject to section 8 of this act, an anatomical gift of a donor's body or part may be made during the life of the donor in the manner provided in section 5 of this act by:

(1) The donor, if the donor is an adult or if the donor is a minor and is:

(a) Emancipated; or

(b) Authorized under state law to apply for a driver's license because the donor is at least fifteen and one-half years old;

(2) An agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) A parent of the donor, if the donor is an unemancipated minor; provided, however, that an anatomical gift made pursuant to this subsection shall cease to be valid once the donor becomes either an emancipated minor or an adult; or

(4) The donor's guardian.

**NEW SECTION. Sec. 5.** (1) A donor may make an anatomical gift:

(a) By authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver's license or identification card;

(b) In a will;

(c) During a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(d) As provided in subsection (2) of this section.

(2) A donor or other person authorized to make an anatomical gift under section 4 of this act may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as provided in (a) of this subsection.

(3) Revocation, suspension, expiration, or cancellation of a driver's license or identification card through which an anatomical gift has been made does not invalidate the gift.

(4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

**NEW SECTION. Sec. 6.** (1) Subject to section 8 of this act, a donor or other person authorized to make an anatomical gift under section 4 of this act may amend or revoke an anatomical gift by:

(a) A record signed by:

(i) The donor;

(ii) The other person; or

(iii) Subject to subsection (2) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(b) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(2) A record signed pursuant to subsection (1)(a)(iii) of this section must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) State that it has been signed and witnessed as provided in (a) of this subsection.

(3) Subject to section 8 of this act, a donor or other person authorized to make an anatomical gift under section 4 of this act may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift. The donor or other person shall notify the Washington organ procurement organization of the destruction or cancellation of the document of gift for the purpose of removing the individual's name from the organ and tissue donor registry created in RCW 68.50.635 (as recodified by this act). If the Washington state organ procurement organization that is notified does not maintain a registry for Washington residents, it shall notify all Washington state procurement organizations that do maintain such a registry.

(4) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (1) of this section.

**NEW SECTION. Sec. 7.** (1) An individual may refuse to make an anatomical gift of the individual's body or part by:

(a) A record signed by:

(i) The individual; or

(ii) Subject to subsection (2) of this section, another individual acting at the direction of the individual if the individual is physically unable to sign;

(b) The individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(c) Any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(2) A record signed pursuant to subsection (1)(a)(ii) of this section must:

(a) Be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(b) State that it has been signed and witnessed as provided in (a) of this subsection.

(3) An individual who has made a refusal may amend or revoke the refusal:

(a) In the manner provided in subsection (1) of this section for making a refusal;

(b) By subsequently making an anatomical gift pursuant to section 5 of this act that is inconsistent with the refusal; or

(c) By destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(4) Except as otherwise provided in section 8(8) of this act, in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

**NEW SECTION. Sec. 8.** (1) Except as otherwise provided in subsection (7) of this section and subject to subsection (6) of this section, in the absence of an express, contrary indication by the donor, a person other than the donor is barred from making, amending, or revoking an anatomical gift of a donor's body or part if the donor made an anatomical gift of the donor's body or part under section 5 of this act or an amendment to an anatomical gift of the donor's body or part under section 6 of this act.

(2) A donor's revocation of an anatomical gift of the donor's body or part under section 6 of this act is not a refusal and does not bar another person specified in section 4 or 9 of this act from making an anatomical gift of the donor's body or part under section 5 or 10 of this act.

(3) If a person other than the donor makes an unrevoked anatomical gift of the donor's body or part under section 5 of this act or an amendment to an anatomical gift of the donor's body or part under section 6 of this act, another person may not make, amend, or revoke the gift of the donor's body or part under section 10 of this act.

(4) A revocation of an anatomical gift of a donor's body or part under section 6 of this act by a person other than the donor does not bar another person from making an anatomical gift of the body or part under section 5 or 10 of this act.

(5) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 4 of this act, an anatomical gift of a part is neither a refusal to give another part nor a limitation on the making of an anatomical gift of another part at a later time by the donor or another person.

(6) In the absence of an express, contrary indication by the donor or other person authorized to make an anatomical gift under section 4 of this act, an anatomical gift of a part for one or more of the permitted purposes is not a limitation on the making of an anatomical gift of the part for any of the other purposes by the donor or any other person under section 5 or 10 of this act.

(7) If a donor who is an unemancipated minor dies, a parent of the donor who is reasonably available may revoke or amend an anatomical gift of the donor's body or part.

(8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is reasonably available may revoke the minor's refusal.

**NEW SECTION. Sec. 9.** (1) Subject to subsections (2) and (3) of this section and unless barred by section 7 or 8 of this act, an anatomical gift of a decedent's body or part may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(a) An agent of the decedent at the time of death who could have made an anatomical gift under section 4(2) of this act immediately before the decedent's death;

(b) The spouse, or domestic partner registered as required by state law, of the decedent;

(c) Adult children of the decedent;

(d) Parents of the decedent;

(e) Adult siblings of the decedent;

(f) Adult grandchildren of the decedent;

(g) Grandparents of the decedent;

(h) The persons who were acting as the guardians of the person of the decedent at the time of death; and

(i) Any other person having the authority under applicable law to dispose of the decedent's body.

(2) If there is more than one member of a class listed in subsection (1)(a), (c), (d), (e), (f), (g), or (h) of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under section 11 of this act knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(3) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (1) of this section is reasonably available to make or to object to the making of an anatomical gift.

**NEW SECTION. Sec. 10.** (1) A person authorized to make an anatomical gift under section 9 of this act may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(2) Subject to subsection (3) of this section, an anatomical gift by a person authorized under section 9 of this act may be amended or

revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under section 9 of this act may be:

(a) Amended only if a majority of the reasonably available members agree to the amending of the gift; or

(b) Revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(3) A revocation under subsection (2) of this section is effective only if, before an incision has been made to remove a part from the donor's body or before transplant procedures have begun on the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

**NEW SECTION. Sec. 11.** (1) An anatomical gift may be made to the following persons named in the document of gift:

(a) For research or education: A hospital; an accredited medical school, dental school, college, or university; or an organ procurement organization;

(b) Subject to subsection (2) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part;

(c) An eye bank or tissue bank.

(2) If an anatomical gift to an individual under subsection (1)(b) of this section cannot be transplanted into the individual, the part passes in accordance with subsection (7) of this section in the absence of an express, contrary indication by the person making the anatomical gift.

(3) If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (1) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(a) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank.

(b) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank.

(c) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(d) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

(4) For the purpose of subsection (3) of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

(5) If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in subsection (1) of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (7) of this section.

(6) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy, and the gift passes in accordance with subsection (7) of this section.

(7) For purposes of subsections (2), (5), and (6) of this section the following rules apply:

(a) If the part is an eye, the gift passes to the appropriate eye bank.

(b) If the part is tissue, the gift passes to the appropriate tissue bank.

(c) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

(8) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (1)(b) of this section, passes to the organ procurement organization as custodian of the organ.

(9) If an anatomical gift does not pass pursuant to subsections (1) through (8) of this section or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

(10) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under section 5 or 10 of this act or if the person knows that the decedent made a refusal under section 7 of this act that was not revoked. For purposes of this subsection (10), if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

(11) Except as otherwise provided in subsection (1)(b) of this section, nothing in this chapter affects the allocation of organs for transplantation or therapy.

**NEW SECTION. Sec. 12.** (1) A document of gift need not be delivered during the donor's lifetime to be effective.

(2) Upon or after an individual's death, a person in possession of a document of gift or a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under section 11 of this act.

**NEW SECTION. Sec. 13.** (1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the department of licensing and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization must be allowed reasonable access to information in the records of the department of licensing to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under section 11 of this act may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(5) Unless prohibited by law other than this chapter, an examination under subsection (3) or (4) of this section may include

an examination of all medical records of the donor or prospective donor.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under subsection (1) of this section, a procurement organization shall make a reasonable search for any person listed in section 9 of this act having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to sections 11(9), 21, and 22 of this act, the rights of the person to which a part passes under section 11 of this act are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 11 of this act, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

**NEW SECTION. Sec. 14.** When English is not the first language of the person or persons making, amending, revoking, or refusing anatomical gifts as defined in this act, organ procurement organizations are responsible for providing, at no cost, appropriate interpreter services or translations to such persons for the purpose of making such decisions.

**NEW SECTION. Sec. 15.** Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

**NEW SECTION. Sec. 16.** (1) Except as otherwise provided in subsection (2) of this section, a person who, for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death is guilty of a class C felony under RCW 9A.20.010.

(2) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

**NEW SECTION. Sec. 17.** A person who, in order to obtain financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment or revocation of a document of gift, or a refusal is guilty of a class C felony under RCW 9A.20.010.

**NEW SECTION. Sec. 18.** (1) A person who acts in accordance with this chapter or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(2) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(3) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in section 9(1) (b) through (g) of this act relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

**NEW SECTION. Sec. 19.** (1) A document of gift is valid if executed in accordance with:

(a) This chapter;

(b) The laws of the state or country where it was executed; or

(c) The laws of the state or country where the person making the anatomical gift was domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(2) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(3) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

**NEW SECTION. Sec. 20.** (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Advance health care directive" means a power of attorney for health care or a "directive" as defined in RCW 70.122.020.

(b) "Declaration" means a record signed by a prospective donor specifying the circumstances under which a life support system may be withheld or withdrawn from the prospective donor.

(c) "Health care decision" means any decision made regarding the health care of the prospective donor.

(2) If a prospective donor has a declaration or advance health care directive, and the terms of the declaration or directive and the express or implied terms of a potential anatomical gift are in conflict with regard to the administration of measures necessary to ensure the medical suitability of a part for transplantation or therapy, the prospective donor's attending physician and the prospective donor shall confer to resolve the conflict. If the prospective donor is incapable of resolving the conflict, an agent acting under the prospective donor's declaration or directive, or, if none or the agent is not reasonably available, another person authorized by law other than this chapter to make health care decisions on behalf of the prospective donor, shall act for the donor to resolve the conflict. The conflict must be resolved as expeditiously as possible. Information relevant to the resolution of the conflict may be obtained from the appropriate procurement organization and any other person authorized to make an anatomical gift for the prospective donor under section 9 of this act. Before resolution of the conflict, measures necessary to ensure the medical suitability of the part may not be withheld or withdrawn from the prospective donor if withholding or withdrawing the measures is not contraindicated by appropriate end-of-life care.

**NEW SECTION. Sec. 21.** (1)(a) A coroner or medical examiner shall cooperate with procurement organizations, to the extent that such cooperation does not prevent, hinder, or impede the

timely investigation of death, to facilitate the opportunity to recover anatomical gifts for the purpose of transplantation or therapy. However, a coroner or medical examiner may limit the number of procurement organizations with which he or she cooperates.

(b) The coroner or medical examiner may release the initial investigative information to the tissue or organ procurement organization for the purpose of determining the suitability of the potential donor by those organizations. The information released for this purpose shall remain confidential. The coroner or medical examiner is not liable for any release of confidential information by the procurement organization.

(2)(a) Procurement organizations shall cooperate with the coroner or medical examiner to ensure the preservation of and timely transfer to the coroner or medical examiner any physical or biological evidence from a prospective donor that the procurement organization may have contact with or access to that is required by the coroner or medical examiner for the investigation of death.

(b) If the coroner or medical examiner or a designee releases a part for donation under subsection (4) of this section, the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the coroner or medical examiner with a record describing the condition of the part, biopsies, residual tissue, photographs, and any other information and observations requested by the coroner or medical examiner that would assist in the investigation of death.

(3) A part may not be removed from the body of a decedent under the jurisdiction of a coroner or medical examiner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift, and has been released by the coroner or medical examiner. The body of a decedent under the jurisdiction of the coroner or medical examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This subsection does not preclude a coroner or medical examiner from performing the medicolegal investigation upon the body or relevant parts of a decedent under the jurisdiction of the coroner or medical examiner.

(4) If an anatomical gift of a part from the decedent under the jurisdiction of the coroner or medical examiner has been or might be made, but the coroner or medical examiner initially believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death, the collection of evidence, or the description, documentation, or interpretation of injuries on the body, the coroner or medical examiner may consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the coroner or medical examiner may release the part for recovery.

**NEW SECTION. Sec. 22.** This chapter is subject to the laws of this state governing the jurisdiction of the coroner or medical examiner.

**NEW SECTION. Sec. 23.** In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**NEW SECTION. Sec. 24.** This chapter modifies, limits, and supersedes the federal electronic signatures in global and national commerce act (15 U.S.C. Sec. 7001 et seq.) with respect to electronic signatures and anatomical gifts, but does not modify, limit, or supersede section 101(a) of that act (15 U.S.C. Sec. 7001), or

authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. Sec. 7003(b)).

**Sec. 25.** RCW 1.50.010 and 1998 c 59 s 2 are each amended to read as follows:

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

(1) "Organ donor" means an individual who makes an anatomical gift as specified in ~~((RCW 68.50.530(1)))~~ chapter 68.-- RCW (sections 1 through 24 of this act).

(2) "Organ procurement organization" ~~((means any accredited or certified organ or eye bank))~~ has the same meaning as in section 2 of this act.

(3) "Person" means a person specified in ~~((RCW 68.50.550))~~ section 9 of this act.

**Sec. 26.** RCW 46.12.510 and 2003 c 94 s 6 are each amended to read as follows:

An applicant for a new or renewed registration for a vehicle required to be registered under this chapter or chapter 46.16 RCW may make a donation of one dollar or more to the organ and tissue donation awareness account to promote the donation of organs and tissues under the provisions of the uniform anatomical gift act, ~~((RCW 68.50.520 through 68.50.630))~~ chapter 68.-- RCW (sections 1 through 24 of this act). The department shall collect the donations and credit the donations to the organ and tissue donation awareness account, created in RCW 68.50.640 (as recodified by this act). At least quarterly, the department shall transmit donations made to the organ and tissue donation awareness account to the foundation established for organ and tissue donation awareness purposes by the Washington state organ procurement organizations. All Washington state organ procurement organizations will have proportional access to these funds to conduct public education in their service areas. The donation of one or more dollars is voluntary and may be refused by the applicant. The department shall make available informational booklets or other informational sources on the importance of organ and tissue donations to applicants.

The department shall inquire of each applicant at the time the completed application is presented whether the applicant is interested in making a donation of one dollar or more and shall also specifically inform the applicant of the option for organ and tissue donations as required by RCW 46.20.113. The department shall also provide written information to each applicant volunteering to become an organ and tissue donor. The written information shall disclose that the applicant's name shall be transmitted to the organ and tissue donor registry created in RCW 68.50.635 (as recodified by this act), and that the applicant shall notify a Washington state organ procurement organization of any changes to the applicant's donor status.

All reasonable costs associated with the creation of the donation program created under this section must be paid proportionally or by other agreement by a Washington state organ procurement organization.

For the purposes of this section, "reasonable costs" and "Washington state organ procurement organization" have the same meaning as defined in ~~((RCW 68.50.530))~~ section 2 of this act.

**Sec. 27.** RCW 46.20.113 and 1993 c 228 s 18 are each amended to read as follows:

The department of licensing shall provide a statement whereby the licensee may certify his or her willingness to make an anatomical gift under ~~((RCW 68.50.540))~~ section 4 of this act, as now or

hereafter amended. The department shall provide the statement in at least one of the following ways:

- (1) On each driver's license; or
- (2) With each driver's license; or
- (3) With each in-person driver's license application.

**Sec. 28.** RCW 46.20.1131 and 2003 c 94 s 5 are each amended to read as follows:

The department shall electronically transfer the information of all persons who upon application for a driver's license or identicaid volunteer to donate organs or tissue to a registry created in RCW 68.50.635 (as recodified by this act), and any subsequent changes to the applicant's donor status when the applicant renews a driver's license or identicaid or applies for a new driver's license or identicaid.

NEW SECTION. **Sec. 29.** Sections 1 through 24 of this act constitute a new chapter in Title 68 RCW.

NEW SECTION. **Sec. 30.** RCW 68.50.635 and 68.50.640 are each recodified as sections in the new chapter created in section 29 of this act.

NEW SECTION. **Sec. 31.** The following acts or parts of acts are each repealed:

- (1) RCW 68.50.500 (Identification of potential donors--Hospital procedures) and 1993 c 228 s 20, 1987 c 331 s 71, & 1986 c 129 s 1;
- (2) RCW 68.50.510 (Good faith compliance with RCW 68.50.500--Hospital liability) and 1987 c 331 s 72 & 1986 c 129 s 2;
- (3) RCW 68.50.520 (Anatomical gifts--Findings--Declaration) and 1993 c 228 s 1;
- (4) RCW 68.50.530 (Anatomical gifts--Definitions) and 2003 c 94 s 2, 1996 c 178 s 15, & 1993 c 228 s 2;
- (5) RCW 68.50.540 (Anatomical gifts--Authorized--Procedures--Changes--Refusal) and 2003 c 94 s 4, 1995 c 132 s 1, & 1993 c 228 s 3;
- (6) RCW 68.50.550 (Anatomical gifts--By person other than decedent) and 2007 c 156 s 26 & 1993 c 228 s 4;
- (7) RCW 68.50.560 (Anatomical gifts--Hospital procedure--Records--Liability) and 1993 c 228 s 5;
- (8) RCW 68.50.570 (Anatomical gifts--Donees) and 1993 c 228 s 6;
- (9) RCW 68.50.580 (Anatomical gifts--Document of gift--Delivery) and 1993 c 228 s 7;
- (10) RCW 68.50.590 (Anatomical gifts--Rights of donee--Time of death--Actions by technician, enucleator) and 1993 c 228 s 8;
- (11) RCW 68.50.600 (Anatomical gifts--Hospitals--Procurement and use coordination) and 1993 c 228 s 9;
- (12) RCW 68.50.610 (Anatomical gifts--Illegal purchase or sale--Penalty) and 2003 c 53 s 312 & 1993 c 228 s 10; and
- (13) RCW 68.50.620 (Anatomical gifts--Examination for medical acceptability--Jurisdiction of coroner, medical examiner--Liability limited) and 1993 c 228 s 11."

On page 1, line 2 of the title, after "act;" strike the remainder of the title and insert "amending RCW 1.50.010, 46.12.510, 46.20.113, and 46.20.1131; adding a new chapter to Title 68 RCW; recodifying RCW 68.50.635 and 68.50.640; repealing RCW 68.50.500, 68.50.510, 68.50.520, 68.50.530, 68.50.540, 68.50.550, 68.50.560, 68.50.570, 68.50.580, 68.50.590, 68.50.600, 68.50.610, and 68.50.620; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1637 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Hinkle and Cody spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Engrossed Substitute House Bill No. 1637, as amended by the Senate.

### MOTIONS

On motion of Representative Santos, Representative Williams was excused. On motion of Representative Schindler, Representatives Hailey and Sump were excused.

### ROLL CALL

The Clerk called the roll on the final passage of Second Engrossed Substitute House Bill No. 1637, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 95, Nays - 0, Absent - 0, Excused - 3.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 95.

Excused: Representatives Hailey, Skinner and Williams - 3.

SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1637, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2474 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 18.225.090 and 2006 c 69 s 1 are each amended to read as follows:

(1) The secretary shall issue a license to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following education and experience requirements for the applicant's practice area.

(a) Licensed social work classifications:

(i) Licensed advanced social worker:

(A) Graduation from a master's or doctorate social work educational program accredited by the council on social work education and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of three thousand two hundred hours with supervision by an approved supervisor who has been licensed for at least two years. Of those supervised hours:

(I) At least ninety hours ((of supervision)) must include direct supervision as specified in this subsection by a licensed independent clinical social worker ((or)), a licensed advanced social worker ((who has been licensed or certified for at least two years)), or an equally qualified licensed mental health professional. Of those hours((-)) of directly supervised experience:

(1) At least fifty hours must include ((direct)) supervision by a licensed advanced social worker or licensed independent clinical social worker; the other forty hours may be ((with)) supervised by an equally qualified licensed mental health practitioner((-)); and

(2) At least forty hours must be in one-to-one supervision and fifty hours may be in one-to-one supervision or group supervision((-);

(II) Distance supervision is limited to forty supervision hours((-); and

(III) Eight hundred hours must be in direct client contact; and

(D) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(ii) Licensed independent clinical social worker:

(A) Graduation from a master's or doctorate level social work educational program accredited by the council on social work education and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of four thousand hours of experience, ((of which)) over a three-year period, with supervision by an approved supervisor who has been licensed for at least two years and, as specified in this subsection, may be either a licensed independent clinical social worker who has had at least one year of experience in supervising the clinical social work of others or an equally qualified licensed mental health practitioner. Of those supervised hours:

~~(I) At least one thousand hours must be direct client contact(over a three-year period supervised by a licensed independent clinical social worker who has been licensed or certified for at least five years and who has had at least one year of experience in supervising the clinical social work practice of others, with supervision of);~~

~~(II) Hours of direct supervision must include:~~

~~(1) At least one hundred thirty hours by a licensed mental health practitioner(Of the total supervision);~~

~~(2) At least seventy hours ((must be)) of supervision with ((an)) a licensed independent clinical social worker meeting the qualifications under this subsection (1)(a)(ii)(C); the other sixty hours may be ((with)) supervised by an equally qualified licensed mental health practitioner(=); and~~

~~(3) At least sixty hours must be in one-to-one supervision and seventy hours may be in one-to-one supervision or group supervision(=); and~~

~~(III) Distance supervision is limited to sixty supervision hours; and~~

(D) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(b) Licensed mental health counselor:

(i) Graduation from a master's or doctoral level educational program in mental health counseling or a related discipline from a college or university approved by the secretary based upon nationally recognized standards;

(ii) Successful completion of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of thirty-six months full-time counseling or three thousand hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or equally qualified licensed mental health practitioner, in an approved setting. The three thousand hours of required experience includes a minimum of one hundred hours spent in immediate supervision with the qualified licensed mental health counselor, and includes a minimum of one thousand two hundred hours of direct counseling with individuals, couples, families, or groups; and

(iv) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(c) Licensed marriage and family therapist:

(i) Graduation from a master's degree or doctoral degree educational program in marriage and family therapy or graduation from an educational program in an allied field equivalent to a master's degree or doctoral degree in marriage and family therapy approved by the secretary based upon nationally recognized standards;

(ii) Successful passage of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of two calendar years of full-time marriage and family therapy. Of the total supervision, one hundred hours must be with a licensed marriage and family therapist with at least five years' clinical experience; the other one hundred hours may be with an equally qualified licensed mental health practitioner. Total experience requirements include:

(A) A minimum of three thousand hours of experience, one thousand hours of which must be direct client contact; at least five hundred hours must be gained in diagnosing and treating couples and families; plus

(B) At least two hundred hours of qualified supervision with a supervisor. At least one hundred of the two hundred hours must be one-on-one supervision, and the remaining hours may be in one-on-one or group supervision.

Applicants who have completed a master's program accredited by the commission on accreditation for marriage and family therapy education of the American association for marriage and family therapy may be credited with five hundred hours of direct client contact and one hundred hours of formal meetings with an approved supervisor; and

(iv) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(2) The department shall establish by rule what constitutes adequate proof of meeting the criteria.

(3) In addition, applicants shall be subject to the grounds for denial of a license or issuance of a conditional license under chapter 18.130 RCW.

NEW SECTION. Sec. 2. This act is remedial and curative in nature and applies retroactively to July 22, 2003."

On page 1, line 2 of the title, after "licenses;" strike the remainder of the title and insert "amending RCW 18.225.090; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2474 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Cody and Hinkle spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2474, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2474, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 95, Nays - 0, Absent - 0, Excused - 3.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest,

Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 95.

Excused: Representatives Hailey, Skinner and Williams - 3.

SUBSTITUTE HOUSE BILL NO. 2474, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2537 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 70.47A.020 and 2007 c 260 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) "Administrator" means the administrator of the Washington state health care authority, established under chapter 41.05 RCW.

(2) "Board" means the health insurance partnership board established in RCW 70.47A.100.

(3) "Eligible partnership participant" means ~~((an individual))~~ a partnership participant who:

(a) Is a resident of the state of Washington; and

(b) Has family income that does not exceed two hundred percent of the federal poverty level, as determined annually by the federal department of health and human services ~~((; and~~

~~—(c) Is employed by a participating small employer or is a former employee of a participating small employer who chooses to continue receiving coverage through the partnership following separation from employment)).~~

(4) "Health benefit plan" has the same meaning as defined in RCW 48.43.005.

(5) "Participating small employer" means a small employer that ~~((employs at least one eligible partnership participant and))~~ has entered into an agreement with the partnership ~~((for the partnership to offer and administer the small employer's group health benefit plan, as defined in federal law, Sec. 706 of ERISA (29 U.S.C. Sec. 1167), for enrollees in the plan))~~ to purchase health benefits through the partnership. To participate in the partnership, an employer must attest to the fact that (a) the employer does not currently offer health insurance to its employees, and (b) at least fifty percent of the employer's employees are low-wage workers.

(6) "Partnership" means the health insurance partnership established in RCW 70.47A.030.

(7) "Partnership participant" means ~~((an employee))~~ a participating small employer and employees of a participating small employer, ~~((or))~~ and, except to the extent provided otherwise in RCW 70.47A.110(1)(e), a former employee of a participating small employer who chooses to continue receiving coverage through the partnership following separation from employment.

(8) "Small employer" has the same meaning as defined in RCW 48.43.005.

(9) "Subsidy" or "premium subsidy" means payment or reimbursement to an eligible partnership participant toward the purchase of a health benefit plan, and may include a net billing arrangement with insurance carriers or a prospective or retrospective payment for health benefit plan premiums.

**Sec. 2.** RCW 70.47A.030 and 2007 c 259 s 58 are each amended to read as follows:

(1) To the extent funding is appropriated in the operating budget for this purpose, the health insurance partnership is established. The administrator shall be responsible for the implementation and operation of the health insurance partnership, directly or by contract. The administrator shall offer premium subsidies to eligible partnership participants under RCW 70.47A.040. The partnership shall begin to offer coverage no later than March 1, 2009.

(2) Consistent with policies adopted by the board under ~~((section 59 of this act))~~ RCW 70.47A.110, the administrator shall, directly or by contract:

(a) Establish and administer procedures for enrolling small employers in the partnership, including publicizing the existence of the partnership and disseminating information on enrollment, and establishing rules related to minimum participation of employees in small groups purchasing health insurance through the partnership. Opportunities to publicize the program for outreach and education of small employers on the value of insurance shall explore the use of online employer guides. As a condition of participating in the partnership, a small employer must agree to establish a cafeteria plan under section 125 of the federal internal revenue code that will enable employees to use pretax dollars to pay their share of their health benefit plan premium. The partnership shall provide technical assistance to small employers for this purpose;

(b) Establish and administer procedures for health benefit plan enrollment by employees of small employers during open enrollment periods and outside of open enrollment periods upon the occurrence of any qualifying event specified in the federal health insurance portability and accountability act of 1996 or applicable state law. ~~((Neither))~~ Except to the extent authorized in RCW 70.47A.110(1)(e), neither the employer nor the partnership shall limit an employee's choice of coverage from among ((a)) the health benefit plans offered through the partnership;

(c) ~~((Establish and manage a system for the partnership to be designated as the sponsor or administrator of a participating small employer health benefit plan and to undertake the obligations required of a plan administrator under federal law;~~

~~—(d))~~ Establish and manage a system of collecting and transmitting to the applicable carriers all premium payments or contributions made by or on behalf of partnership participants, including employer contributions, automatic payroll deductions for partnership participants, premium subsidy payments, and contributions from philanthropies;

~~((e))~~ (d) Establish and manage a system for determining eligibility for and making premium subsidy payments under chapter 259, Laws of 2007;

~~((f))~~ (e) Establish a mechanism to apply a surcharge to ~~((a))~~ each health benefit plan((s)) purchased through the partnership, which shall be used only to pay for administrative and operational expenses of the partnership. The surcharge must be applied uniformly to all health benefit plans ~~((offered))~~ purchased through the partnership ((and must be included in the premium for each health benefit plan)). Any surcharge amount may be added to the premium,

but shall not be considered part of the small group community rate, and shall be applied only to the coverage purchased through the partnership. Surcharges may not be used to pay any premium assistance payments under this chapter. The surcharge shall reflect administrative and operational expenses remaining after any appropriation provided by the legislature to support administrative or operational expenses of the partnership during the year the surcharge is assessed;

~~((g))~~ (f) Design a schedule of premium subsidies that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members based on a benchmark health benefit plan designated by the board. The amount of an eligible partnership participant's premium subsidy shall be determined by applying a sliding scale subsidy schedule with the percentage of premium similar to that developed for subsidized basic health plan enrollees under RCW 70.47.060. The subsidy shall be applied to the employee's premium obligation for his or her health benefit plan, so that employees benefit financially from any employer contribution to the cost of their coverage through the partnership.

(3) The administrator may enter into interdepartmental agreements with the office of the insurance commissioner, the department of social and health services, and any other state agencies necessary to implement this chapter.

**Sec. 3.** RCW 70.47A.040 and 2007 c 260 s 6 are each amended to read as follows:

Beginning ~~((September 1, 2008))~~ January 1, 2009, the administrator shall accept applications from eligible partnership participants, on behalf of themselves, their spouses, and their dependent children, to receive premium subsidies through the health insurance partnership. Every effort shall be made to coordinate premium subsidies for dependent children with federal funding available under Title XIX and Title XXI of the federal social security act, consistent with the requirements established in RCW 74.09.470(4) for the employer-sponsored insurance program at the department of social and health services.

**Sec. 4.** RCW 70.47A.070 and 2006 c 255 s 7 are each amended to read as follows:

The administrator shall report biennially, beginning November 1, 2010, to the relevant policy and fiscal committees of the legislature on the effectiveness and efficiency of the ~~((small employer))~~ health insurance partnership program, including enrollment trends, the services and benefits covered under the purchased health benefit plans, consumer satisfaction, and other program operational issues.

**Sec. 5.** RCW 70.47A.110 and 2007 c 260 s 5 are each amended to read as follows:

(1) The health insurance partnership board shall:

(a) Develop policies for enrollment of small employers in the partnership, including minimum participation rules for small employer groups. The small employer shall determine the criteria for eligibility and enrollment in his or her plan and the terms and amounts of the employer's contributions to that plan, consistent with any minimum employer premium contribution level established by the board under (d) of this subsection;

(b) Designate health benefit plans that are currently offered in the small group market that will be offered to participating small employers through the health insurance partnership and those plans that will qualify for premium subsidy payments. ~~((At least four))~~ Up to five health benefit plans shall be chosen, with multiple deductible and point-of-service cost-sharing options. The health benefit plans

shall range from catastrophic to comprehensive coverage, and one health benefit plan shall be a high deductible health plan accompanied by a health savings account. Every effort shall be made to include health benefit plans that include components to maximize the quality of care provided and result in improved health outcomes, such as preventive care, wellness incentives, chronic care management services, and provider network development and payment policies related to quality of care;

(c) Approve a mid-range benefit plan from those selected to be used as a benchmark plan for calculating premium subsidies;

(d) Determine whether there should be a minimum employer premium contribution on behalf of employees, and if so, how much;

(e) Develop policies related to partnership participant enrollment in health benefit plans. The board may focus its initial efforts on access to coverage and affordability of coverage for participating small employers and their employees. To the extent necessary for successful implementation of the partnership, during a start-up phase of partnership operation, the board may:

(i) Limit partnership participant health benefit plan choice; and

(ii) Offer former employees of participating small employers the opportunity to continue coverage after separation from employment to the extent that a former employee is eligible for continuation coverage under 29 U.S.C. Sec. 1161 et seq.

The start-up phase may not exceed two years from the date the partnership begins to offer coverage;

(f) Determine appropriate health benefit plan rating methodologies. The methodologies shall be based on the small group adjusted community rate as defined in Title 48 RCW. The board shall evaluate the impact of applying the small group adjusted community rating ~~((with))~~ methodology to health benefit plans purchased through the partnership on the ~~((partnership))~~ principle of allowing each ~~((employee))~~ partnership participant to choose ~~((their))~~ his or her health benefit plan, and ~~((consider options))~~ may implement one or more risk adjustment or reinsurance mechanisms to reduce uncertainty for carriers and provide for efficient risk management of high-cost enrollees ~~((through risk adjustment, reinsurance, or other mechanisms))~~;

~~((f))~~ (g) Determine whether the partnership should be designated as the administrator of a participating small employer health benefit plan and undertake the obligations required of a plan administrator under federal law in order to minimize administrative burdens on participating small employers;

(h) Conduct analyses and provide recommendations as requested by the legislature and the governor, with the assistance of staff from the health care authority and the office of the insurance commissioner.

(2) The board may authorize one or more limited health care service plans for dental care services to be offered by limited health care service contractors under RCW 48.44.035. However, such plan shall not qualify for subsidy payments.

(3) In fulfilling the requirements of this section, the board shall consult with small employers, the office of the insurance commissioner, members in good standing of the American academy of actuaries, health carriers, agents and brokers, and employees of small business.

**Sec. 6.** RCW 48.21.045 and 2007 c 260 s 7 are each amended to read as follows:

(1)(a) An insurer offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a

health benefit plan featuring a limited schedule of covered health care services. Nothing in this subsection shall preclude an insurer from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. An insurer offering a health benefit plan under this subsection shall clearly disclose all covered benefits to the small employer in a brochure filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142, 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200, 48.21.220, 48.21.225, 48.21.230, 48.21.235, ~~((48.21.240,))~~ 48.21.244, 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

(2) Nothing in this section shall prohibit an insurer from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The insurer shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The insurer shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered

similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all small groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(j) For health benefit plans purchased through the health insurance partnership established in chapter 70.47A RCW:

(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e) shall be applied only to health benefit plans purchased through the health insurance partnership; and

(ii) Risk adjustment or reinsurance mechanisms may be used by the health insurance partnership program to redistribute funds to carriers participating in the health insurance partnership based on differences in risk attributable to individual choice of health plans or other factors unique to health insurance partnership participation. Use of such mechanisms shall be limited to the partnership program and will not affect small group health plans offered outside the partnership.

(4) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection, requirements used by an insurer in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) An insurer shall not require a minimum participation level greater than:

- (i) One hundred percent of eligible employees working for groups with three or less employees; and
- (ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) An insurer may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) Minimum participation requirements and employer premium contribution requirements adopted by the health insurance

partnership board under RCW 70.47A.110 shall apply only to the employers and employees who purchase health benefit plans through the health insurance partnership.

(6) An insurer must offer coverage to all eligible employees of a small employer and their dependents. An insurer may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. An insurer may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

(7) As used in this section, "health benefit plan," "small employer," "adjusted community rate," and "wellness activities" mean the same as defined in RCW 48.43.005.

**Sec. 7.** RCW 48.44.023 and 2007 c 260 s 8 are each amended to read as follows:

(1)(a) A health care services contractor offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan featuring a limited schedule of covered health care services. Nothing in this subsection shall preclude a contractor from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. A contractor offering a health benefit plan under this subsection shall clearly disclose all covered benefits to the small employer in a brochure filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290, 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335, (~~48.44.340;~~) 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and 48.44.460.

(2) Nothing in this section shall prohibit a health care service contractor from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The contractor shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The contractor shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups

on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(j) For health benefit plans purchased through the health insurance partnership established in chapter 70.47A RCW:

(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e) shall be applied only to health benefit plans purchased through the health insurance partnership; and

(ii) Risk adjustment or reinsurance mechanisms may be used by the health insurance partnership program to redistribute funds to carriers participating in the health insurance partnership based on differences in risk attributable to individual choice of health plans or other factors unique to health insurance partnership participation. Use of such mechanisms shall be limited to the partnership program and will not affect small group health plans offered outside the partnership.

(4) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection, requirements used by a contractor in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) A contractor shall not require a minimum participation level greater than:

(i) One hundred percent of eligible employees working for groups with three or less employees; and

(ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) A contractor may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) Minimum participation requirements and employer premium contribution requirements adopted by the health insurance partnership board under RCW 70.47A.110 shall apply only to the employers and employees who purchase health benefit plans through the health insurance partnership.

(6) A contractor must offer coverage to all eligible employees of a small employer and their dependents. A contractor may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. A contractor may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

**Sec. 8.** RCW 48.46.066 and 2007 c 260 s 9 are each amended to read as follows:

(1)(a) A health maintenance organization offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan featuring a limited schedule of covered health care services. Nothing in this subsection shall preclude a health maintenance organization from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. A health maintenance organization offering a health benefit plan under this subsection shall clearly disclose all the covered benefits to the small employer in a brochure filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, ~~((48.46.290))~~ 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510, 48.46.520, and 48.46.530.

(2) Nothing in this section shall prohibit a health maintenance organization from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The health maintenance organization shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

(i) Geographic area;

(ii) Family size;

(iii) Age; and

(iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The health maintenance organization shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

(i) Changes to the enrollment of the small employer;

(ii) Changes to the family composition of the employee;

(iii) Changes to the health benefit plan requested by the small employer; or

(iv) Changes in government requirements affecting the health benefit plan.

(g) Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the

carrier a detailed actuarial justification for any denial within thirty days of the denial.

(j) For health benefit plans purchased through the health insurance partnership established in chapter 70.47A RCW:

(i) Any surcharge established pursuant to RCW 70.47A.030(2)(e) shall be applied only to health benefit plans purchased through the health insurance partnership; and

(ii) Risk adjustment or reinsurance mechanisms may be used by the health insurance partnership program to redistribute funds to carriers participating in the health insurance partnership based on differences in risk attributable to individual choice of health plans or other factors unique to health insurance partnership participation. Use of such mechanisms shall be limited to the partnership program and will not affect small group health plans offered outside the partnership.

(4) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection, requirements used by a health maintenance organization in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) A health maintenance organization shall not require a minimum participation level greater than:

(i) One hundred percent of eligible employees working for groups with three or less employees; and

(ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) A health maintenance organization may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(e) Minimum participation requirements and employer premium contribution requirements adopted by the health insurance partnership board under RCW 70.47A.110 shall apply only to the employers and employees who purchase health benefit plans through the health insurance partnership.

(6) A health maintenance organization must offer coverage to all eligible employees of a small employer and their dependents. A health maintenance organization may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. A health maintenance organization may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

**NEW SECTION. Sec. 9.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

On page 1, line 3 of the title, after "partnership," strike the remainder of the title and insert "amending RCW 70.47A.020, 70.47A.030, 70.47A.040, 70.47A.070, 70.47A.110, 48.21.045, 48.44.023, and 48.46.066; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2537 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Cody spoke in favor of the passage of the bill.

Representative Hinkle spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2537, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2537, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 63, Nays - 32, Absent - 0, Excused - 3.

Voting yea: Representatives Appleton, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Liias, Linville, Loomis, McCoy, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Wood and Mr. Speaker - 63.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Chandler, Condotta, Crouse, DeBolt, Dunn, Ericksen, Haler, Hankins, Herrera, Hinkle, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Schmick, Smith, Sump, Walsh and Warnick - 32.

Excused: Representatives Hailey, Skinner and Williams - 3.

SECOND SUBSTITUTE HOUSE BILL NO. 2537, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Second Substitute House Bill No. 2537.

TROY KELLEY, 28<sup>th</sup> District

**MESSAGE FROM THE SENATE**

March 7, 2008

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2713 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.43.753 and 2002 c 289 s 1 are each amended to read as follows:

The legislature finds that recent developments in molecular biology and genetics have important applications for forensic science. It has been scientifically established that there is a unique pattern to the chemical structure of the deoxyribonucleic acid (DNA) contained in each cell of the human body. The process for identifying this pattern is called "DNA identification."

The legislature further finds that DNA databases are important tools in criminal investigations, in the exclusion of individuals who are the subject of investigations or prosecutions, and in detecting recidivist acts. It is the policy of this state to assist federal, state, and local criminal justice and law enforcement agencies in both the identification and detection of individuals in criminal investigations and the identification and location of missing and unidentified persons. Therefore, it is in the best interest of the state to establish a DNA database and DNA data bank containing DNA samples submitted by persons convicted of felony offenses and other crimes as specified in RCW 43.43.754. DNA samples necessary for the identification of missing persons and unidentified human remains shall also be included in the DNA database.

The legislature further finds that the DNA identification system used by the federal bureau of investigation and the Washington state patrol has no ability to predict genetic disease or predisposal to illness. Nonetheless, the legislature intends that biological samples collected under RCW 43.43.754, and DNA identification data obtained from the samples, be used only for purposes related to criminal investigation, identification of human remains or missing persons, or improving the operation of the system authorized under RCW 43.43.752 through 43.43.758.

**Sec. 2.** RCW 43.43.754 and 2002 c 289 s 2 are each amended to read as follows:

(1) A biological sample must be collected for purposes of DNA identification analysis from:

(a) Every adult or juvenile individual convicted of a felony (~~or stalking under RCW 9A.46.110, harassment under RCW 9A.46.020, communicating with a minor for immoral purposes under RCW 9.68A.090, or adjudicated guilty of an equivalent juvenile offense must have a biological sample collected for purposes of DNA identification analysis in the following manner~~), or any of the following crimes (or equivalent juvenile offenses):

Assault in the fourth degree with sexual motivation (RCW 9A.36.041, 9.94A.835)

Communication with a minor for immoral purposes (RCW 9.68A.090)

Custodial sexual misconduct in the second degree (RCW 9A.44.170)

Failure to register (RCW 9A.44.130)

Harassment (RCW 9A.46.020)

Patronizing a prostitute (RCW 9A.88.110)

Sexual misconduct with a minor in the second degree (RCW 9A.44.096)

Stalking (RCW 9A.46.110)

Violation of a sexual assault protection order granted under chapter 7.90 RCW; and

(b) Every adult or juvenile individual who is required to register under RCW 9A.44.130.

(2) If the Washington state patrol crime laboratory already has a DNA sample from an individual for a qualifying offense, a subsequent submission is not required to be submitted.

(3) Biological samples shall be collected in the following manner:

(a) For persons convicted of (~~such offenses~~) any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense who do not serve a term of confinement in a department of corrections facility, and do serve a term of confinement in a city or county jail facility, the city or county shall be responsible for obtaining the biological samples (~~either as part of the intake process into the city or county jail or detention facility for those persons convicted on or after July 1, 2002, or within a reasonable time after July 1, 2002, for those persons incarcerated before July 1, 2002, who have not yet had a biological sample collected, beginning with those persons who will be released the soonest~~).

(b) The local police department or sheriff's office shall be responsible for obtaining the biological samples for:

(i) Persons convicted of (~~such offenses~~) any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense who do not serve a term of confinement in a department of corrections facility, and do not serve a term of confinement in a city or county jail facility (~~the local police department or sheriff's office is responsible for obtaining the biological samples after sentencing on or after July 1, 2002~~); and

(ii) Persons who are required to register under RCW 9A.44.030.

(c) For persons convicted of (~~such offenses~~) any offense listed in subsection (1)(a) of this section or adjudicated guilty of an equivalent juvenile offense, who are serving or who are to serve a term of confinement in a department of corrections facility or a department of social and health services facility, the facility holding the person shall be responsible for obtaining the biological samples (~~either as part of the intake process into such facility for those persons convicted on or after July 1, 2002, or within a reasonable time after July 1, 2002~~)). For those persons incarcerated before ((July 1, 2002)) the effective date of this section, who have not yet had a biological sample collected, ((beginning with)) priority shall be given to those persons who will be released the soonest.

((2)) (4) Any biological sample taken pursuant to RCW 43.43.752 through 43.43.758 may be retained by the forensic laboratory services bureau, and shall be used solely for the purpose of providing DNA or other tests for identification analysis and prosecution of a criminal offense or for the identification of human remains or missing persons. Nothing in this section prohibits the submission of results derived from the biological samples to the federal bureau of investigation combined DNA index system.

((3)) (5) The ((director of the)) forensic laboratory services bureau of the Washington state patrol (~~shall perform~~) is responsible for testing performed on all biological samples that are collected

under subsection (1) of this section, to the extent allowed by funding available for this purpose. The director shall give priority to testing on samples collected from those adults or juveniles convicted of a felony or adjudicated guilty of an equivalent juvenile offense that is defined as a sex offense or a violent offense in RCW 9.94A.030. Known duplicate samples may be excluded from testing unless testing is deemed necessary or advisable by the director.

~~((4))~~ This section applies to all adults who are convicted of a sex or violent offense after July 1, 1990; and to all adults who were convicted of a sex or violent offense on or prior to July 1, 1990, and who are still incarcerated on or after July 25, 1999. This section applies to all juveniles who are adjudicated guilty of a sex or violent offense after July 1, 1994; and to all juveniles who were adjudicated guilty of a sex or violent offense on or prior to July 1, 1994, and who are still incarcerated on or after July 25, 1999. This section applies to all adults and juveniles who are convicted of a felony other than a sex or violent offense, stalking under RCW 9A.46.110, harassment under RCW 9A.46.020, or communicating with a minor for immoral purposes under RCW 9.68A.090, or adjudicated guilty of an equivalent juvenile offense, on or after July 1, 2002; and to all adults and juveniles who were convicted or adjudicated guilty of such an offense before July 1, 2002, and are still incarcerated on or after July 1, 2002.)) (6) This section applies to :

(a) All adults and juveniles to whom this section applied prior to the effective date of this section;

(b) All adults and juveniles to whom this section did not apply prior to the effective date of this section who:

(i) Are convicted on or after the effective date of this section of an offense listed in subsection (1)(a) of this section; or

(ii) Were convicted prior to the effective date of this section of an offense listed in subsection (1)(a) of this section and are still incarcerated on or after the effective date of this section; and

(c) All adults and juveniles who are required to register under RCW 9A.44.130 on or after the effective date of this section, whether convicted before, on, or after the effective date of this section.

~~((5))~~ (7) This section creates no rights in a third person. No cause of action may be brought based upon the noncollection or nonanalysis or the delayed collection or analysis of a biological sample authorized to be taken under RCW 43.43.752 through 43.43.758.

~~((6))~~ (8) The detention, arrest, or conviction of a person based upon a database match or database information is not invalidated if it is determined that the sample was obtained or placed in the database by mistake, or if the conviction or juvenile adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including but not limited to posttrial or postfact-finding motions, appeals, or collateral attacks.

**Sec. 3.** RCW 43.43.7541 and 2002 c 289 s 4 are each amended to read as follows:

Every sentence imposed under chapter 9.94A RCW(~~(s)~~) for a ~~((felony))~~ crime specified in RCW 43.43.754 ~~((that is committed on or after July 1, 2002,))~~ must include a fee of one hundred dollars ~~((for collection of a biological sample as required under RCW 43.43.754, unless the court finds that imposing the fee would result in undue hardship on the offender))~~. The fee is a court-ordered legal financial obligation as defined in RCW 9.94A.030, payable by the offender after payment of all other legal financial obligations included in the sentence has been completed. The clerk of the court shall transmit eighty percent of the fee(s) collected to the state treasurer for deposit in the state DNA database account created under RCW

43.43.7532, and shall transmit twenty percent of the fee collected to the agency responsible for collection of a biological sample from the offender as required under RCW 43.43.754.

**Sec. 4.** RCW 43.43.756 and 1989 c 350 s 5 are each amended to read as follows:

The Washington state patrol ((in consultation with the University of Washington school of medicine)) forensic laboratory services bureau may:

(1) Provide DNA analysis services to law enforcement agencies throughout the state ~~((after July 1, 1990))~~;

(2) Provide assistance to law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court; and

(3) Provide expert testimony in court on DNA evidentiary issues."

On page 1, line 2 of the title, after "persons;" strike the remainder of the title and insert "and amending RCW 43.43.753, 43.43.754, 43.43.7541, and 43.43.756."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2713 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Seaquist and Pearson spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2713, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2713, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 1, Absent - 0, Excused - 3.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Lias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest,

Quall, Roach, Roberts, Rodne, Rolfes, Ross, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Voting nay: Representative Santos - 1.

Excused: Representatives Hailey, Skinner and Williams - 3.

SECOND SUBSTITUTE HOUSE BILL NO. 2713, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2774 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 9A.76 RCW to read as follows:

(1) A person who, with the intent of causing an activation of the voluntary broadcast notification system commonly known as the "Amber alert," or as the same system may otherwise be known, which is used to notify the public of abducted children, knowingly makes a false or misleading material statement to a public servant that a child has been abducted and which statement causes an activation, is guilty of a class C felony.

(2) "Material statement" means a written or oral statement reasonably likely to be relied upon by a public servant in the discharge of his or her official powers or duties."

On page 1, line 2 of the title, after "alert;" strike the remainder of the title and insert "adding a new section to chapter 9A.76 RCW; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2774 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Barlow and Pearson spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of House Bill No. 2774, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2774, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 95, Nays - 0, Absent - 0, Excused - 3.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 95.

Excused: Representatives Hailey, Skinner and Williams - 3.

HOUSE BILL NO. 2774, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2786 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 4.24.550 and 2005 c 380 s 2, 2005 c 228 s 1, and 2005 c 99 s 1 are each reenacted and amended to read as follows:

(1) In addition to the disclosure under subsection (5) of this section, public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding: (a) Any person adjudicated or convicted of a sex offense as defined in RCW 9A.44.130 or a kidnapping offense as defined by RCW 9A.44.130; (b) any person under the jurisdiction of the indeterminate sentence review board as the result of a sex offense or kidnapping offense; (c) any person committed as a sexually violent predator under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW; (d) any person found not guilty of a sex offense or kidnapping offense by reason of insanity under chapter 10.77 RCW; and (e) any person found incompetent to stand trial for a sex offense or kidnapping offense and subsequently committed under chapter 71.05 or 71.34 RCW.

(2) Except for the information specifically required under subsection (5) of this section, the extent of the public disclosure of relevant and necessary information shall be rationally related to: (a) The level of risk posed by the offender to the community; (b) the locations where the offender resides, expects to reside, or is regularly found; and (c) the needs of the affected community members for information to enhance their individual and collective safety.

(3) Except for the information specifically required under subsection (5) of this section, local law enforcement agencies shall consider the following guidelines in determining the extent of a public disclosure made under this section: (a) For offenders classified as risk level I, the agency shall share information with other appropriate law enforcement agencies and, if the offender is a student, the public or private school regulated under Title 28A RCW or chapter 72.40 RCW which the offender is attending, or planning to attend. The agency may disclose, upon request, relevant, necessary, and accurate information to any victim or witness to the offense and to any individual community member who lives near the residence where the offender resides, expects to reside, or is regularly found; (b) for offenders classified as risk level II, the agency may also disclose relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, public libraries, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside, or is regularly found; (c) for offenders classified as risk level III, the agency may also disclose relevant, necessary, and accurate information to the public at large; and (d) because more localized notification is not feasible and homeless and transient offenders may present unique risks to the community, the agency may also disclose relevant, necessary, and accurate information to the public at large for offenders registered as homeless or transient.

(4) The county sheriff with whom an offender classified as risk level III is registered shall cause to be published by legal notice, advertising, or news release a sex offender community notification that conforms to the guidelines established under RCW 4.24.5501 in at least one legal newspaper with general circulation in the area of the sex offender's registered address or location. The county sheriff shall also cause to be published consistent with this subsection a current list of level III registered sex offenders, twice yearly. Unless the information is posted on the web site described in subsection (5) of this section, this list shall be maintained by the county sheriff on a publicly accessible web site and shall be updated at least once per month.

(5)(a) When funded by federal grants or other sources, the Washington association of sheriffs and police chiefs shall create and maintain a statewide registered kidnapping and sex offender web site, which shall be available to the public. The web site shall post all level III and level II registered sex offenders, level I registered sex offenders during the time they are out of compliance with registration requirements under RCW 9A.44.130, and all registered kidnapping offenders in the state of Washington.

(i) For level III offenders, the web site shall contain, but is not limited to, the registered sex offender's name, relevant criminal convictions, address by hundred block, physical description, and photograph. The web site shall provide mapping capabilities that display the sex offender's address by hundred block on a map. The web site shall allow citizens to search for registered sex offenders within the state of Washington by county, city, zip code, last name, type of conviction, and address by hundred block.

(ii) For level II offenders, and level I sex offenders during the time they are out of compliance with registration requirements under

RCW 9A.44.130, the web site shall contain, but is not limited to, the same information and functionality as described in (a)(i) of this subsection, provided that it is permissible under state and federal law. If it is not permissible, the web site shall be limited to the information and functionality that is permissible under state and federal law.

(iii) For kidnapping offenders, the web site shall contain, but is not limited to, the same information and functionality as described in (a)(i) of this subsection, provided that it is permissible under state and federal law. If it is not permissible, the web site shall be limited to the information and functionality that is permissible under state and federal law.

(b) Until the implementation of (a) of this subsection, the Washington association of sheriffs and police chiefs shall create a web site available to the public that provides electronic links to county-operated web sites that offer sex offender registration information.

(6) Local law enforcement agencies that disseminate information pursuant to this section shall: (a) Review available risk level classifications made by the department of corrections, the department of social and health services, and the indeterminate sentence review board; (b) assign risk level classifications to all offenders about whom information will be disseminated; and (c) make a good faith effort to notify the public and residents at least fourteen days before the offender is released from confinement or, where an offender moves from another jurisdiction, as soon as possible after the agency learns of the offender's move, except that in no case may this notification provision be construed to require an extension of an offender's release date. The juvenile court shall provide local law enforcement officials with all relevant information on offenders allowed to remain in the community in a timely manner.

(7) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any discretionary risk level classification decisions or release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity in this section applies to risk level classification decisions and the release of relevant and necessary information regarding any individual for whom disclosure is authorized. The decision of a local law enforcement agency or official to classify an offender to a risk level other than the one assigned by the department of corrections, the department of social and health services, or the indeterminate sentence review board, or the release of any relevant and necessary information based on that different classification shall not, by itself, be considered gross negligence or bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(8) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section.

(9) Nothing in this section implies that information regarding persons designated in subsection (1) of this section is confidential except as may otherwise be provided by law.

(10) When a local law enforcement agency or official classifies an offender differently than the offender is classified by the end of sentence review committee or the department of social and health services at the time of the offender's release from confinement, the law enforcement agency or official shall notify the end of sentence review committee or the department of social and health services and

submit its reasons supporting the change in classification. Upon implementation of subsection (5)(a) of this section, notification of the change shall also be sent to the Washington association of sheriffs and police chiefs."

On page 1, line 3 of the title, after "site;" strike the remainder of the title and insert "and reenacting and amending RCW 4.24.550."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2786 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Kelley and Pearson spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of House Bill No. 2786, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2786, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 95, Nays - 0, Absent - 0, Excused - 3.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 95.

Excused: Representatives Hailey, Skinner and Williams - 3.

HOUSE BILL NO. 2786, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2835 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the safety of children in foster care depends upon receipt of comprehensive, accurate, and timely information about the background of prospective foster parents. It is vital to ensure that all relevant information about prospective foster parents is received and carefully reviewed. The legislature believes that some foster parents may have previously resided in other countries and that it is important to determine whether those countries have background information on the prospective foster parents that might impact the safety of children in their care.

**NEW SECTION. Sec. 2.** A new section is added to chapter 26.44 RCW to read as follows:

(1) During an emergency situation when a child must be placed in out-of-home care due to the absence of appropriate parents or custodians, the department shall request a federal name-based criminal history record check of each adult residing in the home of the potential placement resource. Upon receipt of the results of the name-based check, the department shall provide a complete set of each adult resident's fingerprints to the Washington state patrol for submission to the federal bureau of investigation within fourteen calendar days from the date the name search was conducted. The child shall be removed from the home immediately if any adult resident fails to provide fingerprints and written permission to perform a federal criminal history record check when requested.

(2) When placement of a child in a home is denied as a result of a name-based criminal history record check of a resident, and the resident contests that denial, the resident shall, within fifteen calendar days, submit to the department a complete set of the resident's fingerprints with written permission allowing the department to forward the fingerprints to the Washington state patrol for submission to the federal bureau of investigation.

(3) The Washington state patrol and the federal bureau of investigation may each charge a reasonable fee for processing a fingerprint-based criminal history record check.

(4) As used in this section, "emergency placement" refers to those limited instances when the department is placing a child in the home of private individuals, including neighbors, friends, or relatives, as a result of a sudden unavailability of the child's primary caretaker.

**Sec. 3.** RCW 74.15.040 and 1982 c 118 s 7 are each amended to read as follows:

An agency seeking to accept and serve children, developmentally disabled persons, or expectant mothers as a foster-family home shall make application for license in such form and substance as required by the department. The department shall maintain a list of applicants through which placement may be undertaken. However, agencies and the department shall not place a child, developmentally disabled person, or expectant mother in a home until the home is licensed. The department shall inquire

whether an applicant has previously resided in any other state or foreign country and shall check databases available to it through the Washington state patrol and federal bureau of investigation to ascertain whether the applicant has ever been the subject of a conviction or civil finding outside of the state of Washington that bears upon the fitness of the applicant to serve as a foster-family home. Foster-family homes shall be inspected prior to licensure, except that inspection by the department is not required if the foster-family home is under the supervision of a licensed agency upon certification to the department by the licensed agency that such homes meet the requirements for foster homes as adopted pursuant to chapter 74.15 RCW and RCW 74.13.031.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

On page 1, line 3 of the title, after "situation;" strike the remainder of the title and insert "amending RCW 74.15.040; adding a new section to chapter 26.44 RCW; creating a new section; and declaring an emergency."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### **SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2878 and advanced the bill as amended by the Senate to final passage.

#### **FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED**

Representative Kagi spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of House Bill No. 2835, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of House Bill No. 2835, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 95, Nays - 0, Absent - 0, Excused - 3.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse,

O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 95.

Excused: Representatives Hailey, Skinner and Williams - 3.

HOUSE BILL NO. 2835, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### **MESSAGE FROM THE SENATE**

February 27, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2878 with the following amendment:

*Formatting change to accommodate amendment.*

Strike everything after the enacting clause and insert the following:

**"2007-09 BIENNIUM  
GENERAL GOVERNMENT AGENCIES--OPERATING**

**Sec. 101.** 2007 c 518 s 101 (uncodified) is amended to read as follows:

**FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Grade Crossing Protective Account--State Appropriation. . . . . ~~(\$505,000)~~  
\$504,000

**Sec. 102.** 2007 c 518 s 102 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

Motor Vehicle Account--State Appropriation. . . . . ~~(\$3,054,000)~~  
\$3,177,000  
Puget Sound Ferry Operations Account--State Appropriation. . . . . \$100,000  
TOTAL APPROPRIATION. . . . . ~~(\$3,154,000)~~  
\$3,277,000

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

- (1) \$2,545,000 of the motor vehicle account--state appropriation is provided solely for the office of regulatory assistance integrated permitting project.
- (2) \$75,000 of the motor vehicle account state appropriation is provided solely to address transportation budget and reporting requirements.

**Sec. 103.** 2007 c 518 s 103 (uncodified) is amended to read as follows:

**FOR THE MARINE EMPLOYEES COMMISSION**

Puget Sound Ferry Operations Account--State Appropriation. . . . . ~~(\$422,000)~~  
\$419,000

The appropriation in this section is subject to the following conditions and limitations: A maximum of \$6,000 may be expended to pay the department of personnel for conducting the 2007 salary survey.

**Sec. 104.** 2007 c 518 s 104 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

Motor Vehicle Account--State Appropriation. . . . . ~~(\$985,000)~~  
\$983,000

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

**Sec. 105.** 2007 c 518 s 105 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

Motor Vehicle Account--State Appropriation. . . . . ~~(\$1,358,000)~~  
\$1,355,000

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

- (1) \$351,000 of the motor vehicle account--state appropriation is provided solely for costs associated with the motor fuel quality program.
- (2) ~~(\$1,007,000)~~ \$1,004,000 of the motor vehicle account--state appropriation is provided solely to test the quality of biofuel. The department must test fuel quality at the biofuel manufacturer, distributor, and retailer.

**Sec. 106.** 2007 c 518 s 106 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION**

Motor Vehicle Account--State Appropriation. . . . . ~~(\$223,000)~~  
\$340,000

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

**TRANSPORTATION AGENCIES--OPERATING**

**Sec. 201.** 2007 c 518 s 201 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION**

Highway Safety Account--State Appropriation. . . . . ~~(\$2,609,000)~~

	\$2,605,000
Highway Safety Account--Federal Appropriation. . . . .	(((\$15,880,000))
	<u>\$15,849,000</u>
School Zone Safety Account--State Appropriation. . . . .	(((\$3,300,000))
	<u>\$3,376,000</u>
TOTAL APPROPRIATION. . . . .	(((\$21,789,000))
	<u>\$21,830,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$76,000 of the school zone safety account--state appropriation is provided solely for contracting with the office of the superintendent of public instruction (OSPI) to conduct pilot programs in three school districts for road safety education and training for children, in order to teach children safe walking, bicycling, and transit use behavior. The pilot projects shall be conducted during the 2008-09 academic year, and shall be modeled after a program and curriculum successfully implemented in the Spokane school district. Funds are provided for curriculum resources, bicycle purchases, teacher training, other essential services and equipment, and OSPI administrative expenses which may include contracting out pilot program administration. The participating school districts shall be located as follows: One in Grant county, one in Island county, and one in Kitsap county. The OSPI shall evaluate the pilot programs, and report to the transportation committees of the legislature no later than December 1, 2009, on the outcomes of the pilot programs. The report shall include a survey identifying barriers to, interest in, and the likelihood of students traveling by biking, walking, or transit both prior to and following completion of the pilot program.

**Sec. 202.** 2007 c 518 s 202 (uncodified) is amended to read as follows:

**FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account--State Appropriation. . . . .	(((\$907,000))
	<u>\$901,000</u>
Motor Vehicle Account--State Appropriation. . . . .	(((\$2,075,000))
	<u>\$2,060,000</u>
County Arterial Preservation Account--State Appropriation. . . . .	(((\$1,399,000))
	<u>\$1,389,000</u>
TOTAL APPROPRIATION. . . . .	(((\$4,381,000))
	<u>\$4,350,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$481,000 of the county arterial preservation account--state appropriation is provided solely for continued development and implementation of a maintenance management system to manage county transportation assets.

**Sec. 203.** 2007 c 518 s 203 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Urban Arterial Trust Account--State Appropriation. . . . .	(((\$1,793,000))
	<u>\$1,780,000</u>
Transportation Improvement Account--State Appropriation. . . . .	(((\$1,795,000))
	<u>\$1,781,000</u>
TOTAL APPROPRIATION. . . . .	(((\$3,588,000))
	<u>\$3,561,000</u>

**Sec. 204.** 2007 c 518 s 204 (uncodified) is amended to read as follows:

**FOR THE BOARD OF PILOTAGE COMMISSIONERS**

Pilotage Account--State Appropriation. . . . .	(((\$1,156,000))
	<u>\$1,153,000</u>

**Sec. 205.** 2007 c 518 s 205 (uncodified) is amended to read as follows:

**FOR THE JOINT TRANSPORTATION COMMITTEE**

Motor Vehicle Account--State Appropriation. . . . .	(((\$2,103,000))
	<u>\$2,364,000</u>
State Patrol Highway Account--State Appropriation. . . . .	\$100,000
Multimodal Transportation Account--State Appropriation. . . . .	\$550,000
TOTAL APPROPRIATION. . . . .	(((\$2,653,000))
	<u>\$3,014,000</u>

The appropriations in this section (~~(\*)~~) are subject to the following conditions and limitations:

(1) ~~(\$500,000)~~ \$750,000 of the motor vehicle account--state appropriation is for establishing a work group to implement Engrossed Substitute House Bill No. 2358 (regarding state ferries) and review other matters relating to Washington state ferries. The cochairs of the committee shall establish the work group comprising committee members or their designees, an appointee by the governor, and other

stakeholders as appointed by the cochairs, to assist in the committee's work. The work group shall present a report (~~(the progress)~~) of its tasks to the transportation committees of the legislature by December ~~((15, 2007))~~ 1, 2008. The work group is tasked with the following:

(a) Implementing the recommendations of Engrossed Substitute House Bill No. 2358 (regarding state ferries). As directed by Engrossed Substitute House Bill No. 2358, the committee work group shall participate in and provide a review of the following:

- (i) The Washington transportation commission's development and interpretation of a survey of ferry customers;
- (ii) The department of transportation's analysis and reestablishment of vehicle level of service standards. In reestablishing the standards, consideration must be given to whether boat wait is the appropriate measure;
- (iii) The department's development of pricing policy proposals. In developing these policies, the policy, in effect on some routes, of collecting fares in only one direction must be evaluated to determine whether one-way fare pricing best serves the ferry system;
- (iv) The department's development of operational strategies;
- (v) The department's development of terminal design standards; and
- (vi) The department's development of a long-range capital plan;

(b) Reviewing the following Washington state ferry programs:

- (i) Ridership demand forecast;
- (ii) Updated life cycle cost model, as directed by Engrossed Substitute House Bill No. 2358;
- (iii) Administrative operating costs, nonlabor and nonfuel operating costs, Eagle Harbor maintenance facility program and maintenance costs, administrative and systemwide capital costs, and vessel preservation costs; and

(iv) The Washington state ferries' proposed capital cost allocation plan methodology, as described in Engrossed Substitute House Bill No. 2358;

(c) Making recommendations regarding:

(i) The most efficient timing and sizing of future vessel acquisitions beyond those currently authorized by the legislature. Vessel acquisition recommendations must be based on the ridership projections, level of service standards, and operational and pricing strategies reviewed by the committee and must include the impact of those recommendations on the timing and size of terminal capital investments and the state ferries' long range operating and capital finance plans; and

(ii) Capital financing strategies for consideration in the 2009 legislative session. This work must include confirming the department's estimate of future capital requirements based on a long range capital plan and must include the department's development of a plan for codevelopment and public private partnership opportunities at public ferry terminals; and

(d) Evaluate the capital cost allocation plan methodology developed by the department to implement Engrossed Substitute House Bill No. 2358.

(2) \$250,000 of the motor vehicle account--state appropriation and \$250,000 of the multimodal transportation account--state appropriation are for the continuing implementation of (~~Substitute Senate Bill No. 5207~~) chapter 514, Laws of 2007.

(3) \$300,000 of the multimodal transportation account--state appropriation is for implementing Substitute House Bill No. 1694 (coordinated transportation). If Substitute House Bill No. 1694 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(4) \$100,000 of the state patrol highway account--state appropriation is for a study of the most cost-effective means of ensuring that the pension concerns of the members of the Washington state patrol retirement system are adequately and appropriately considered and submitted to the legislature. The committee shall solicit participation and guidance from the senate ways and means committee, the house of representatives appropriations committee, the department of retirement systems, the office of financial management, the Washington state patrol troopers association, the Washington state patrol lieutenants association, the Washington state patrol, and the office of the state actuary, and report the study recommendations to the legislature by November 1, 2008.

**Sec. 206.** 2007 c 518 s 206 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION COMMISSION**

Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$2,276,000</del> ))
	<u>\$2,469,000</u>
Multimodal Transportation Account--State Appropriation. . . . .	\$112,000
TOTAL APPROPRIATION. . . . .	(( <del>\$2,388,000</del> ))
	<u>\$2,581,000</u>

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

(1) \$350,000 of the motor vehicle account--state appropriation is provided solely for the commission to conduct a survey of ferry customers as described in Engrossed Substitute House Bill No. 2358. Development and interpretation of the survey must be done with participation of the joint transportation committee work group established in section 205(1) of this act.

(2) (~~(\$100,000))~~ \$300,000 of the motor vehicle account--state appropriation is provided solely for a study to identify and evaluate long-term financing alternatives for the Washington state ferry system. The study shall incorporate the findings of the initial survey described in subsection (1) of this section, and shall consider the potential for state, regional, or local financing options. The commission shall submit a draft final report of its findings and recommendations to the transportation committees of the legislature no later than December 2008.

(3) The commission shall conduct a planning grade tolling study that is based on the recommended policies in the commission's comprehensive tolling study submitted September 20, 2006.

(4) Pursuant to RCW 43.135.055, during the 2007-09 fiscal biennium, the transportation commission shall establish, periodically review, and, if necessary, modify a schedule of toll charges applicable to the state route 167 high-occupancy toll lane pilot project, as required by RCW 47.56.403.

(5) The transportation commission shall consider revisions to the toll rates and other user fees for the Tacoma Narrows bridge. This review shall ensure that the revenues are sufficient to: (a) Meet the operating costs of the eligible toll facilities, including necessary maintenance, preservation, toll collection, administration, and toll enforcement by public law enforcement; (b) meet obligations for the repayment of debt and interest on the eligible toll facilities, and any other associated financing costs including, but not limited to, required reserves, minimum debt coverage or other appropriate contingency funding, and insurance; and (c) meet any other obligations of the tolling authority. A report on this review shall be submitted to the legislature by September 30, 2008.

**Sec. 207.** 2007 c 518 s 207 (uncodified) is amended to read as follows:

**FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD**

Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$695,000</del> ))
	<u>\$692,000</u>

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

- (1) The freight mobility strategic investment board shall, on a quarterly basis, provide status reports to the office of financial management and the transportation committees of the legislature on the delivery of projects funded by this act.
- (2) The freight mobility strategic investment board and the department of transportation shall collaborate to submit a report to the office of financial management and the transportation committees of the legislature by September 1, 2008, listing proposed freight highway and rail projects. The report must describe the analysis used for selecting such projects, as required by chapter 47.06A RCW for the board and as required by this act for the department. When developing its list of proposed freight highway and rail projects, the freight mobility strategic investment board shall use the priorities identified in section 309(7)(a) of this act to the greatest extent possible.

**Sec. 208.** 2007 c 518 s 208 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL--FIELD OPERATIONS BUREAU**

State Patrol Highway Account--State Appropriation. . . . .	(( <del>\$225,445,000</del> ))
	<u>\$227,172,000</u>
State Patrol Highway Account--Federal Appropriation. . . . .	\$10,602,000
State Patrol Highway Account--Private/Local Appropriation. . . . .	\$410,000
TOTAL APPROPRIATION. . . . .	(( <del>\$236,457,000</del> ))
	<u>\$238,184,000</u>

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

- (1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol.
- (2) In addition to the user fees, the patrol shall transfer into the state patrol nonappropriated airplane revolving account under RCW 43.79.470 no more than the amount of appropriated state patrol highway account and general fund funding necessary to cover the costs for the patrol's use of the aircraft. The state patrol highway account and general fund--state funds shall be transferred proportionately in accordance with a cost allocation that differentiates between highway traffic enforcement services and general policing purposes.
- (3) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the governor and transportation committees of the senate and house of representatives by September 30th of each year.
- (4) \$1,662,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1304 (commercial vehicle enforcement). If Substitute House Bill No. 1304 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.
- (5) During the fiscal year 2008, the Washington state patrol shall continue to perform traffic accident investigations on Thurston, Mason, and Lewis county roads, and shall work with the counties to transition the traffic accident investigations on county roads to the counties by July 1, 2008.
- (6) \$100,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1417 (health benefits for surviving dependents). If Substitute House Bill No. 1417 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.
- (7) \$3,300,000 of the state patrol highway account--state appropriation is provided solely for the salaries and benefits associated with accretion in the number of troopers employed above 1,158 authorized commissioned troopers, or solely for training new cadets; however, the amount provided in this subsection is contingent on the Washington state patrol submitting a 2009-11 budget request that fully funds field force operations without reliance on a projected vacancy rate.
- (8) By July 1, 2008, the Washington state patrol shall assign six additional troopers to the Monroe detachment from among troopers requesting transfer to Monroe or graduating cadet classes.

**Sec. 209.** 2007 c 518 s 209 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL--INVESTIGATIVE SERVICES BUREAU**

State Patrol Highway Account--State Appropriation. . . . .	(( <del>\$1,300,000</del> ))
	<u>\$1,553,000</u>

**Sec. 210.** 2007 c 518 s 210 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL--TECHNICAL SERVICES BUREAU**

State Patrol Highway Account--State Appropriation. . . . .	(( <del>\$103,157,000</del> ))
	<u>\$102,891,000</u>
State Patrol Highway Account--Private/Local Appropriation. . . . .	\$2,008,000
TOTAL APPROPRIATION. . . . .	(( <del>\$105,165,000</del> ))
	<u>\$104,899,000</u>

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

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

(2) ((~~\$12,641,000~~)) \$9,981,000 of the total appropriation is provided solely for automobile fuel in the 2007-2009 biennium.

(3) ((~~\$8,678,000~~)) \$7,461,000 of the total appropriation is provided solely for the purchase of pursuit vehicles.

(4) ((~~\$5,254,000~~)) \$6,328,000 of the total appropriation is provided solely for vehicle repair and maintenance costs of vehicles used for highway purposes.

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

(6) The Washington state patrol may submit information technology related requests for funding only if the patrol has coordinated with the department of information services as required by section 602 of this act.

(7) \$630,000 of the total appropriation is provided solely for the ongoing software maintenance and technical support for the digital microwave system. The Washington state patrol shall coordinate with the other members of the Washington state interoperability executive committee to ensure compatibility between emergency communication systems.

**Sec. 211.** 2007 c 518 s 212 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING**

Marine Fuel Tax Refund Account--State Appropriation. . . . .	\$32,000
Motorcycle Safety Education Account--State Appropriation. . . . .	(( <del>\$3,905,000</del> ))
	<u>\$3,899,000</u>
Wildlife Account--State Appropriation. . . . .	(( <del>\$843,000</del> ))
	<u>\$831,000</u>
Highway Safety Account--State Appropriation. . . . .	(( <del>\$141,953,000</del> ))
	<u>\$145,570,000</u>
Highway Safety Account--Federal Appropriation. . . . .	\$233,000
Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$79,230,000</del> ))
	<u>\$78,424,000</u>
Motor Vehicle Account--Private/Local Appropriation. . . . .	\$1,372,000
Motor Vehicle Account--Federal Appropriation. . . . .	(( <del>\$117,000</del> ))
	<u>\$1,354,000</u>
Department of Licensing Services Account--State Appropriation. . . . .	(( <del>\$3,540,000</del> ))
	<u>\$4,542,000</u>
Washington State Patrol Highway Account--State Appropriation. . . . .	\$1,145,000
TOTAL APPROPRIATION. . . . .	(( <del>\$232,370,000</del> ))
	<u>\$237,402,000</u>

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

(1) \$2,941,000 of the highway safety account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1267 (modifying commercial driver's license requirements). If Substitute House Bill No. 1267 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse. The department shall informally report to the legislature by December 1, 2008, with measurable data indicating the department's progress in meeting its goal of improving public safety by improving the quality of the commercial driver's license testing process.

(2) \$716,000 of the motorcycle safety education account--state appropriation is provided solely for the implementation of Senate Bill No. 5273 (modifying motorcycle driver's license endorsement and education provisions). If Senate Bill No. 5273 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(3) ((~~\$8,872,000~~)) \$12,322,000 of the highway safety account--state appropriation is provided solely for costs associated with the ((~~systems development and issuance of~~)) processing costs of issuing enhanced drivers' licenses and identicards to facilitate crossing the Canadian border. ((~~If Engrossed Substitute House Bill No. 1289 (relating to the issuance of enhanced drivers' licenses and identicards) is not enacted by June 30, 2007, the amount provided in this subsection shall lapse. The department may expend funds only after acceptance of the enhanced Washington state driver's license for border crossing purposes by the Canadian and United States governments. The department may expend funds only after prior written approval of the director of financial management. Of the amount provided in this subsection, up to \$1,000,000~~))

is for a statewide educational campaign, which must include coordination with existing public and private entities, to inform the Washington public of the benefits of the new enhanced drivers' licenses and identicards:))

(4) \$91,000 of the motor vehicle account--state appropriation and \$152,000 of the highway safety account--state appropriation are provided solely for contracting with the office of the attorney general to investigate criminal activity uncovered in the course of the agency's licensing and regulatory activities. Funding is provided for the 2008 fiscal year. The department may request funding for the 2009 fiscal year if the request is submitted with measurable data indicating the department's progress in meeting its goal of increased prosecution of illegal activity.

(5) \$350,000 of the highway safety account--state appropriation is provided solely for the costs associated with the systems development of the interface that will allow insurance carriers and their agents real time, online access to drivers' records. If Substitute Senate Bill No. 5937 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(6) \$1,145,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1304 (modifying commercial motor vehicle carrier provisions). If Substitute House Bill No. 1304 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(7) The department may submit information technology related requests for funding only if the department has coordinated with the department of information services as required by section 602 of this act.

(8) ~~((Within the amounts appropriated in this section, the department shall, working with the legislature, develop a proposal to))~~ \$116,000 of the motor vehicle account--state appropriation is provided solely to, in consultation with the legislature, streamline title and registration statutes to specifically address apparent conflicts, fee distribution, and other recommendations by the department that are revenue neutral and which do not change legislative policy. The department shall ((report the results of this review to the transportation committees of the legislature by December 1, 2007)) submit recommended changes to the transportation committees of the legislature by the end of the biennium.

(9) \$246,000 of the department of licensing services account--state appropriation is provided solely for the implementation of Substitute Senate Bill No. 6836 (secure vehicle licensing system). If Substitute Senate Bill No. 6836 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(10) \$960,000 of the motor vehicle account--state appropriation is provided solely for the implementation of Second Substitute House Bill No. 1046 (motor vehicle insurance). If Second Substitute House Bill No. 1046 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(11) \$277,000 of the highway safety account--state appropriation is provided solely for the implementation of Senate Bill No. 6885 (driving record abstracts). If Senate Bill No. 6885 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(12) \$417,000 of the highway safety account--state appropriation is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 6546 (ignition interlock drivers' license). If Engrossed Second Substitute Senate Bill No. 6546 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(13) The department shall investigate instituting a program whereby individual registered vehicle owners can have license plates tested for reflectivity to determine whether the department's requirement that the license plates be replaced after seven years can be waived for that particular set of license plates.

**Sec. 212.** 2007 c 518 s 213 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--TOLL OPERATIONS AND MAINTENANCE--PROGRAM B**

High-Occupancy Toll Lanes Account--State Appropriation. . . . .	(( <del>\$2,596,000</del> ))
	<u>\$2,253,000</u>
Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$5,600,000</del> ))
	<u>\$1,018,000</u>
Tacoma Narrows Toll Bridge Account--State Appropriation. . . . .	(( <del>\$28,218,000</del> ))
	<u>\$28,249,000</u>
TOTAL APPROPRIATION. . . . .	(( <del>\$36,414,000</del> ))
	<u>\$31,520,000</u>

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

~~(((1) \$5,000,000 of the motor vehicle account--state is provided solely to provide a reserve for the Tacoma Narrows Bridge project. This appropriation shall be held in unallotted status until the office of financial management deems that revenues applicable to the Tacoma Narrows Bridge project are not sufficient to cover the project's expenditures.~~

~~---(2) The department shall solicit private donations to fund activities related to the opening ceremonies of the Tacoma Narrows bridge project.))~~ The department shall develop incentives to reduce and control tolling operations costs. These incentives may be directed at the public, the tolling contractor, or the department. Incentives to be considered should include, but not be limited to: Incentives to return unneeded transponders, incentives to close inactive accounts, incentives to reduce printed account statements, incentives to reduce labor costs, and incentives to reduce postage and shipping costs. These incentives shall be presented for review by the transportation commission by September 30, 2008.

**Sec. 213.** 2007 c 518 s 214 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--INFORMATION TECHNOLOGY--PROGRAM C**

Transportation Partnership Account--State Appropriation. . . . .	(( <del>\$4,556,000</del> ))
	<u>\$5,892,000</u>
Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$67,613,000</del> ))
	<u>\$67,744,000</u>

Motor Vehicle Account--Federal Appropriation. . . . .	\$1,096,000
Puget Sound Ferry Operations Account--State Appropriation. . . . .	<del>(\$9,192,000)</del>
	<u>\$9,147,000</u>
Multimodal Transportation Account--State Appropriation. . . . .	\$363,000
Transportation 2003 Account (Nickel Account)--State Appropriation. . . . .	<del>(\$4,000,000)</del>
	<u>\$5,337,000</u>
TOTAL APPROPRIATION. . . . .	<del>(\$86,820,000)</del>
	<u>\$89,579,000</u>

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

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

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

(3) ~~(\$2,300,000)~~ \$3,300,000 of the motor vehicle account--state appropriation is provided solely for preliminary work needed to transition the department to the state government network. In collaboration with the department of information services the department shall complete an inventory of the current network infrastructure, ~~(and)~~ develop an implementation plan for transition to the state government network, improve security, and initiate connection to the state government network.

(4) \$1,000,000 of the motor vehicle account--state appropriation, ~~(\$4,556,000)~~ \$5,892,000 of the transportation partnership account--state appropriation, and ~~(\$4,000,000)~~ \$5,337,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for the department to develop a project management and reporting system which is a collection of integrated tools for capital construction project managers to use to perform all the necessary tasks associated with project management. The department shall integrate commercial off-the-shelf software with existing department systems and enhanced approaches to data management to provide web-based access for multi-level reporting and improved business workflows and reporting. Beginning September 1, 2007, and on a quarterly basis thereafter, the department shall report to the office of financial management and the transportation committees of the legislature on the status of the development and integration of the system. The first report shall include a detailed work plan for the development and integration of the system including timelines and budget milestones. At a minimum the ensuing reports shall indicate the status of the work as it compares to the work plan, any discrepancies, and proposed adjustments necessary to bring the project back on schedule or budget if necessary.

(5) The department may submit information technology related requests for funding only if the department has coordinated with the department of information services as required by section 602 of this act.

(6) \$1,600,000 of the motor vehicle account--state appropriation is provided solely for the critical application assessment implementation project. The department shall submit a progress report on the critical application assessment implementation project to the house of representatives and senate transportation committees on or before December 1, 2007, and December 1, 2008, with a final report on or before June 30, 2009.

Sec. 214. 2007 c 518 s 215 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION--PROGRAM D--OPERATING**

Motor Vehicle Account--State Appropriation. . . . .	<del>(\$34,569,000)</del>
	<u>\$34,030,000</u>

Sec. 215. 2007 c 518 s 216 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--AVIATION--PROGRAM F**

Aeronautics Account--State Appropriation. . . . .	<del>(\$6,889,000)</del>
	<u>\$7,868,000</u>
Aeronautics Account--Federal Appropriation. . . . .	\$2,150,000
Multimodal Transportation Account--State Appropriation. . . . .	\$631,000
TOTAL APPROPRIATION. . . . .	<del>(\$9,670,000)</del>
	<u>\$10,649,000</u>

The appropriations in this section are subject to the following conditions and limitations: The entire multimodal transportation account--state appropriation ~~(is)~~ and \$400,000 of the aeronautics account--state appropriation are provided solely for the aviation planning council as provided for in RCW 47.68.410.

Sec. 216. 2007 c 518 s 217 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM DELIVERY MANAGEMENT AND SUPPORT--PROGRAM H**

Transportation Partnership Account--State Appropriation. . . . .	\$2,422,000
Motor Vehicle Account--State Appropriation. . . . .	<del>(\$50,446,000)</del>

	<u>\$52,317,000</u>
Motor Vehicle Account--Federal Appropriation. . . . .	\$500,000
Multimodal Transportation Account--State Appropriation. . . . .	\$250,000
Transportation 2003 Account (Nickel Account)--State Appropriation. . . . .	\$2,422,000
TOTAL APPROPRIATION. . . . .	(( <del>\$56,040,000</del> ))
	<u>\$57,911,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$2,422,000 of the transportation partnership account appropriation and \$2,422,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for consultant contracts to assist the department in the delivery of the capital construction program by identifying improvements to program delivery, program management, project controls, program and project monitoring, forecasting, and reporting. The consultants shall work with the department of information services in the development of the project management and reporting system.

The consultants shall provide an updated copy of the capital construction strategic plan to the legislative transportation committees and to the office of financial management on June 30, 2008, and each year thereafter.

The department shall coordinate its work with other budget and performance efforts, including Roadmap, the findings of the critical applications modernization and integration strategies study, including proposed next steps, and the priorities of government process.

The department shall report to the transportation committees of the house of representatives and senate, and the office of financial management, by December 31, 2007, on the implementation status of recommended capital budgeting and reporting options. Options may include: Reporting against legislatively-established project identification numbers and may include recommendations for reporting against other appropriate project groupings; measures for reporting progress, timeliness, and cost which create an incentive for the department to manage effectively and report its progress in a transparent manner; and criteria and process for transfers of funds among projects.

**Sec. 217.** 2007 c 518 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--ECONOMIC PARTNERSHIPS--PROGRAM K**

Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$1,151,000</del> ))
	<u>\$1,142,000</u>
Multimodal Transportation Account--State Appropriation. . . . .	\$300,000
TOTAL APPROPRIATION. . . . .	(( <del>\$1,451,000</del> ))
	<u>\$1,442,000</u>

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

(1) \$300,000 of the multimodal account--state appropriation is provided solely for the department to hire a consultant to develop a plan for codevelopment and public-private partnership opportunities at public ferry terminals.

(2) The department shall conduct an analysis and, if determined to be feasible, initiate requests for proposals involving the distribution of alternative fuels along state department of transportation rights-of-way.

**Sec. 218.** 2007 c 518 s 219 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--HIGHWAY MAINTENANCE--PROGRAM M**

Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$321,888,000</del> ))
	<u>\$331,565,000</u>
Motor Vehicle Account--Federal Appropriation. . . . .	(( <del>\$2,000,000</del> ))
	<u>\$5,000,000</u>
Motor Vehicle Account--Private/Local Appropriation. . . . .	\$5,797,000
TOTAL APPROPRIATION. . . . .	(( <del>\$329,685,000</del> ))
	<u>\$342,362,000</u>

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

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

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

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

(4) ((~~\$1,500,000~~)) \$5,000,000 of the motor vehicle account--federal appropriation is provided for unanticipated federal funds that may be received during the 2007-09 biennium. Upon receipt of the funds, the department shall provide a report on the use of the funds to the transportation committees of the legislature and the office of financial management.

(5) Funding is provided for maintenance on the state system to deliver service level targets as listed in LEAP Transportation Document 2007-C, as developed April 20, 2007. In delivering the program and aiming for these targets, the department should concentrate on the following areas:

(a) Eliminating the number of activities delivered in the "f" level of service at the region level; and

(b) Evaluating, analyzing, and potentially redistributing resources within and among regions to provide greater consistency in delivering the program statewide and in achieving overall level of service targets.

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

(7) \$650,000 of the motor vehicle account--state appropriation is provided solely for increased asphalt costs.

(8) The department shall prepare a comprehensive listing of maintenance backlogs and related costs and report to the office of financial management and the transportation committees of the legislature by December 31, 2008.

(9) \$79,266,000 of the motor vehicle account--state appropriation is for snow and ice related expenses, within which is a one-time increase of \$3,250,000 provided solely for extraordinary snow and ice removal expenses incurred during the winter of 2007-08.

**Sec. 219.** 2007 c 518 s 220 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q--OPERATING**

Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$52,040,000</del> ))
	<u>\$51,478,000</u>
Motor Vehicle Account--Federal Appropriation. . . . .	\$2,050,000
Motor Vehicle Account--Private/Local Appropriation.. . . .	\$127,000
TOTAL APPROPRIATION.. . . .	(( <del>\$54,217,000</del> ))
	<u>\$53,655,000</u>

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

(1) \$654,000 of the motor vehicle account--state appropriation is provided solely for the department to time state-owned and operated traffic signals. This funding may also be used to program incident, emergency, or special event signal timing plans.

(2) \$346,000 of the motor vehicle account--state appropriation is provided solely for the department to implement a pilot tow truck incentive program. The department may provide incentive payments to towing companies that meet clearance goals on accidents that involve heavy trucks.

(3) \$6,800,000 of the motor vehicle account--state appropriation is provided solely for low-cost enhancements. The department shall give priority to low-cost enhancement projects that improve safety or provide congestion relief. The department shall prioritize low-cost enhancement projects on a statewide rather than regional basis. By January 1, 2008, and January 1, 2009, the department shall provide a report to the legislature listing all low-cost enhancement projects prioritized on a statewide rather than regional basis completed in the prior year.

(4) The department, in consultation with the Washington state patrol, may conduct a pilot program for the patrol to issue infractions based on information from automated traffic safety cameras in roadway construction zones on state highways when workers are present.

(a) In order to ensure adequate time in the 2007-09 biennium to evaluate the effectiveness of the pilot program, any projects authorized by the department must be authorized by December 31, 2007.

(b) The department shall use the following guidelines to administer the program:

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

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

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

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

(v) For purposes of the 2007-09 biennium pilot project, infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras must be processed in the same manner as parking infractions for the purposes of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3). However, the amount of the fine issued for an infraction generated through the use of an automated traffic safety camera is one hundred thirty-seven dollars. The court shall remit thirty-two dollars of the fine to the state treasurer for deposit into the state patrol highway account;

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

(vii) By June 30, 2009, the department shall provide a report to the legislature regarding the use, public acceptance, outcomes, and other relevant issues regarding the pilot project.

(5) The traffic signal operations along 164th Street SE at the intersections of Mill Creek Boulevard and SR 527 should be optimized to minimize vehicle delay on both corridors based on traffic volumes and not only on functional classification or designation.

**Sec. 220.** 2007 c 518 s 221 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION MANAGEMENT AND SUPPORT--PROGRAM S**

Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$28,215,000</del> ))
	<u>\$27,392,000</u>
Motor Vehicle Account--Federal Appropriation. . . . .	\$30,000
Puget Sound Ferry Operations Account--State Appropriation. . . . .	\$1,321,000
Multimodal Transportation Account--State Appropriation. . . . .	\$1,223,000
TOTAL APPROPRIATION. . . . .	(( <del>\$30,789,000</del> ))
	<u>\$29,966,000</u>

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

(1) The department shall work with staffs from the legislative evaluation and accountability program committee, the transportation committees of the legislature, and the office of financial management on developing a new capital budgeting system to meet identified information needs.

(2) \$250,000 of the multimodal account--state appropriation is provided solely for implementing a wounded combat veteran's internship program, administered by the department. The department shall seek federal funding to support the continuation of this program.

**Sec. 221.** 2007 c 518 s 222 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION PLANNING, DATA, AND RESEARCH--PROGRAM T**

Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$30,698,000</del> ))
	<u>\$27,700,000</u>
Motor Vehicle Account--Federal Appropriation. . . . .	\$19,163,000
Multimodal Transportation Account--State Appropriation. . . . .	(( <del>\$1,029,000</del> ))
	<u>\$1,941,000</u>
Multimodal Transportation Account--Federal Appropriation. . . . .	\$2,809,000
Multimodal Transportation Account--Private/Local Appropriation. . . . .	\$100,000
TOTAL APPROPRIATION. . . . .	(( <del>\$53,799,000</del> ))
	<u>\$51,713,000</u>

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

(1) ~~(\$3,900,000 of the motor vehicle account--state appropriation is provided solely for the costs of the regional transportation investment district (RTID) and department of transportation project oversight. The department shall provide support from its urban corridors region to assist in preparing project costs, expenditure plans, and modeling. The department shall not deduct a management reserve, nor charge management or overhead fees. These funds, including those expended since 2003, are provided as a loan to the RTID and shall be repaid to the state within one year following formation of the RTID. \$2,391,000 of the amount provided under this subsection shall lapse, effective January 1, 2008, if voters fail to approve formation of the RTID at the 2007 general election, as determined by the certification of the election results.)~~ \$1,559,000 of the motor vehicle account--state appropriation is provided solely for costs incurred for the 2007 regional transportation investment district election.

(2) ~~(\$300,000)~~ \$1,080,000 of the multimodal transportation account--state appropriation is provided solely for a transportation demand management program, developed by the Whatcom council of governments, to further reduce drive-alone trips and maximize the use of sustainable transportation choices. The community-based program must focus on all trips, not only commute trips, by providing education, assistance, and incentives to four target audiences: (a) Large work sites; (b) employees of businesses in downtown areas; (c) school children; and (d) residents of Bellingham.

(3) \$320,000 of the motor vehicle account--state appropriation and \$128,000 of the motor vehicle account--federal appropriation are provided solely for development of a freight database to help guide freight investment decisions and track project effectiveness. The database will be based on truck movement tracked through geographic information system technology. TransNow will contribute an additional \$192,000 in federal funds which are not appropriated in the transportation budget. The department shall work with the freight mobility strategic investment board to implement this project.

(4) By December 1, 2008, the department shall require confirmation from jurisdictions that plan under the growth management act, chapter 36.70A RCW, and that receive state transportation funding under this act, that the jurisdictions have adopted standards for access permitting on state highways that meet or exceed department standards in accordance with RCW 47.50.030. The objective of this subsection is to encourage local governments, through the receipt of state transportation funding, to adhere to best practices in access control applicable to development activity significantly impacting state transportation facilities. By January 1, 2009, the department shall submit a report to the appropriate committees of the legislature detailing the progress of the local jurisdictions in adopting the highway access permitting standards.

(5) \$150,000 of the motor vehicle account--federal appropriation is provided solely for the costs to develop an electronic map-based computer application that will enable law enforcement officers and others to more easily locate collisions and other incidents in the field.

(6) The department shall add a position within the freight systems division to provide expertise regarding the trucking aspects of the state's freight system.

(7) The department shall evaluate the feasibility of developing a freight corridor bypass from Everett to Gold Bar on US 2, including a connection to SR 522. US 2 is an important freight corridor, and is an alternative route for I-90. Congestion, safety issues, and flooding concerns have all contributed to the need for major improvements to the corridor. The evaluation shall consider the use of toll lanes for the project. The department must report to the transportation committees of the legislature by December 1, 2007, on its analysis and

recommendations regarding the benefit of a freight corridor and the potential use of freight toll lanes to improve safety and congestion in the corridor.

(8) The department shall work with the department of ecology, the county road administration board, and the transportation improvement board to develop model procedures and municipal and state rules in regard to maximizing the use of recycled asphalt on road construction and preservation projects. The department shall report to the joint transportation committee by December 1, 2008, with recommendations on increasing the use of recycled asphalt at the state and local level.

(9) \$140,000 of the multimodal transportation account--state appropriation is provided solely for a full-time employee to develop vehicle miles traveled and other greenhouse gas emissions benchmarks.

(10) \$80,000 of the motor vehicle account--state appropriation is provided solely to study the feasibility of a new interchange on interstate 5 between the city of Rochester and harrison avenue.

**Sec. 222.** 2007 c 518 s 223 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--CHARGES FROM OTHER AGENCIES--PROGRAM U**

Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$66,342,000</del> ))
	<u>\$66,428,000</u>
Motor Vehicle Account--Federal Appropriation. . . . .	\$400,000
Multimodal Transportation Account--State Appropriation. . . . .	\$259,000
TOTAL APPROPRIATION. . . . .	(( <del>\$67,001,000</del> ))
	<u>\$67,087,000</u>

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

(1) \$36,665,000 of the motor vehicle fund--state appropriation is provided solely for the liabilities attributable to the department of transportation. The office of financial management must provide a detailed accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.

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

(a) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT DIVISION OF RISK MANAGEMENT FEES. . . . . \$1,520,000

(b) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR. . . . . ((~~\$1,150,000~~))

\$1,153,000

(c) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES. . . . . ((~~\$4,157,000~~))

\$4,859,000

(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL. . . . . ((~~\$4,033,000~~))

\$7,593,000

(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION. . . . . \$36,665,000

(f) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE. . . . . \$1,838,000

(g) FOR ARCHIVES AND RECORDS MANAGEMENT. . . . . ((~~\$647,000~~))

\$677,000

(h) FOR OFFICE OF MINORITIES AND WOMEN BUSINESS ENTERPRISES. . . . . ((~~\$1,070,000~~))

\$1,042,000

(i) FOR USE OF FINANCIAL SYSTEMS PROVIDED BY THE OFFICE OF FINANCIAL MANAGEMENT. . . . . ((~~\$930,000~~))

\$966,000

(j) FOR POLICY ASSISTANCE FROM THE DEPARTMENT OF INFORMATION SERVICES. . . . . ((~~\$1,138,000~~))

\$945,000

(k) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE. . . . . ((~~\$8,859,000~~))

\$9,045,000

(l) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE FOR THE SECOND PHASE OF THE BOLDT LITIGATION. . . . . \$158,000

(m) FOR DEPARTMENT OF PERSONNEL ONLINE RECRUITING. . . . . \$326,000

**Sec. 223.** 2007 c 518 s 224 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--PUBLIC TRANSPORTATION--PROGRAM V**

Regional Mobility Grant Program Account--State Appropriation. . . . .	\$40,000,000
Multimodal Transportation Account--State Appropriation. . . . .	(( <del>\$85,202,000</del> ))
	<u>\$85,606,000</u>
Multimodal Transportation Account--Federal Appropriation. . . . .	\$2,582,000
Multimodal Transportation Account--Private/Local Appropriation. . . . .	(( <del>\$291,000</del> ))
	<u>\$659,000</u>
TOTAL APPROPRIATION. . . . .	(( <del>\$128,075,000</del> ))
	<u>\$128,847,000</u>

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

(1) \$25,000,000 of the multimodal transportation account--state appropriation is provided solely for a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation.

(a) \$5,500,000 of the amount provided in this subsection is provided solely for grants to nonprofit providers of special needs transportation. Grants for nonprofit providers shall be based on need, including the availability of other providers of service in the area, efforts to coordinate trips among providers and riders, and the cost effectiveness of trips provided.

(b) \$19,500,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2005 as reported in the "Summary of Public Transportation - 2005" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions.

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

(a) \$8,500,000 of the multimodal transportation account--state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the Summary of Public Transportation - 2005 published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) \$8,500,000 of the multimodal transportation account--state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(3) \$8,600,000 of the multimodal transportation account--state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; no operating costs for public transit agencies are eligible for funding under this grant program. No additional employees may be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. Additional criteria for selecting grants must include leveraging funds other than state funds.

(4) \$40,000,000 of the regional mobility grant program account--state appropriation is provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2007-B as developed April 20, 2007. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and any remaining funds available to the office of transit mobility shall be used only to fund projects on the LEAP Transportation Document 2007-B as developed April 20, 2007. The department shall provide annual status reports on December 15, 2007, and December 15, 2008, to the office of financial management and the transportation committees of the legislature regarding the projects receiving the grants.

(5) \$17,168,087 of the multimodal transportation account--state appropriation is reappropriated and provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2006-D, regional mobility grant program projects as developed March 8, 2006. The department shall continue to review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. The department shall promptly close out grants when projects have been completed, and any remaining funds available to the office of transit mobility shall be used only to fund projects on the LEAP Transportation Document 2007-B as developed April 20, 2007, or the LEAP Transportation Document 2006-D as developed March 8, 2006.

(6) \$200,000 of the multimodal transportation account--state appropriation is provided solely for the department to study and then develop pilot programs aimed at addressing commute trip reduction strategies for K-12 students and for college and university students. The department shall submit to the legislature by January 1, 2009, a summary of the program results and recommendations for future student commute trip reduction strategies. The pilot programs are described as follows:

(a) The department shall consider approaches, including mobility education, to reducing and removing traffic congestion in front of schools by changing travel behavior for elementary, middle, and high school students and their parents; and

(b) The department shall design a program that includes student employment options as part of the pilot program applicable to college and university students.

(7) \$2,400,000 of the multimodal account--state appropriation is provided solely for establishing growth and transportation efficiency centers (GTEC). Funds are appropriated for one time only. The department shall provide in its annual report to the legislature an evaluation of the GTEC concept and recommendations on future funding levels.

(8) \$381,000 of the multimodal transportation account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1694 (reauthorizing the agency council on coordinated transportation). If Substitute House Bill No. 1694 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(9) (~~(\$136,000)~~) \$504,000 of the multimodal transportation account--private/local appropriation is provided solely for the implementation of Senate Bill No. 5084 (updating rail transit safety plans). If Senate Bill No. 5084 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(10) \$60,000 of the multimodal transportation account--state appropriation is provided solely for low-income car ownership programs. The department shall collaborate with interested regional transportation planning organizations and metropolitan planning organizations to determine the effectiveness of the programs at providing transportation solutions for low-income persons who depend upon cars to travel to their places of employment.

(11) \$1,000,000 of the multimodal transportation account--state appropriation is provided solely for additional funding for the trip reduction performance program, including telework enhancement projects. Funds are appropriated for one time only.

(12) (~~(\$2,000,000)~~) \$2,309,000 of the multimodal transportation account--state appropriation is provided solely for the tri-county connection service for Island, Skagit, and Whatcom transit agencies.

(13) \$150,000 of the multimodal transportation account--state appropriation is provided solely as a grant for a telework pilot project to be developed, administered, and monitored by the Kitsap regional coordinating council. Funds are appropriated for one time only. The primary purposes of the pilot project are to educate employers about telecommuting, develop telework policies and resources for employers, and reduce traffic congestion by encouraging teleworking in the workplace. As part of the pilot project, the council shall recruit public and private sector employer participants throughout the county, identify telework sites, develop an employer's toolkit consisting of teleworking resources, and create a telecommuting template that may be applied in other communities. The council shall submit to the legislature by July 1, 2009, a summary of the program results and any recommendations for future telework strategies.

**Sec. 224.** 2007 c 518 s 225 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X**

Puget Sound Ferry Operations Account--State Appropriation.....	(( <del>\$412,189,000</del> ))
	<u>\$425,009,000</u>
Multimodal Transportation Account--State Appropriation. ....	(( <del>\$1,830,000</del> ))
	<u>\$1,914,000</u>
TOTAL APPROPRIATION.....	(( <del>\$414,019,000</del> ))
	<u>\$426,923,000</u>

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

(1) ((~~\$79,191,000~~)) \$90,299,000 of the Puget Sound ferry operations--state appropriation is provided solely for auto ferry vessel operating fuel in the 2007-2009 biennium.

(2) The Washington state ferries must work with the department's information technology division to implement an electronic fare system, including the integration of the regional fare coordination system (smart card). Each December and June, semiannual updates must be provided to the transportation committees of the legislature concerning the status of implementing and completing this project, with updates concluding the first December after full project implementation.

(3) The Washington state ferries shall continue to provide service to Sidney, British Columbia.

(4) ((~~\$1,830,000~~)) \$1,914,000 of the multimodal transportation account--state appropriation is provided solely to provide passenger-only ferry service. The ferry system shall continue passenger-only ferry service from Vashon Island to Seattle through June 30, 2008. Ferry system management shall continue to implement its agreement with the inlandboatmen's union of the pacific and the international organization of masters, mates and pilots providing for part-time passenger-only work schedules.

(5) \$932,000 of the Puget Sound ferries operations account--state appropriation is provided solely for compliance with department of ecology rules regarding the transfer of oil on or near state waters. Funding for compliance with on-board fueling rules is provided for the 2008 fiscal year. The department may request funding for the 2009 fiscal year if the request is submitted with an alternative compliance plan filed with the department of ecology, as allowed by rule.

(6) \$1,116,000 of the Puget Sound ferry operations account--state appropriation is provided solely for ferry security operations necessary to comply with the ferry security plan submitted by the Washington state ferry system to the United States coast guard. The department shall track security costs and expenditures. Ferry security operations costs shall not be included as part of the operational costs that are used to calculate farebox recovery.

(7) \$378,000 of the Puget Sound ferry operations account--state appropriation is provided solely to meet the United States coast guard requirements for appropriate rest hours between shifts for vessel crews on the Bainbridge to Seattle and Edmonds to Kingston ferry routes.

(8) \$694,000 of the Puget Sound ferries operating account--state appropriation is provided solely for implementing Engrossed Substitute House Bill No. 2358 as follows:

(a) The department shall allow the joint transportation committee work group established in section 205(1) of this act to participate in the following elements as they are described in Engrossed Substitute House Bill No. 2358:

(i) Development and implementation of a survey of ferry customers;

(ii) Analysis and reestablishment of vehicle level of service standards. In reestablishing the standards, consideration shall be given to whether boat wait is the appropriate measure. The level of service standard shall be reestablished in conjunction with or after the survey has been implemented;

(iii) Development of pricing policy proposals. In developing these policies, the policies, in effect on some routes, of collecting fares in only one direction shall be evaluated to determine whether one-way fare pricing best serves the ferry system. The pricing policy proposals must be developed in conjunction with or after the survey has been implemented;

(iv) Development of operational strategies. The operational strategies shall be reestablished in conjunction with the survey or after the survey has been implemented;

(v) Development of terminal design standards. The terminal design standards shall be finalized after the provisions of subsections (a)(i) through (iv) and subsection (b) of this section have been developed and reviewed by the joint transportation committee; and

(vi) Development of a capital plan. The capital plan shall be finalized after terminal design standards have been developed by the department and reviewed by the joint transportation committee.

(b) The department shall develop a ridership demand forecast that shall be used in the development of a long-range capital plan. If more than one forecast is developed they must be reconciled.

(c) The department shall update the life cycle cost model to meet the requirements of Engrossed Substitute House Bill No. 2358 no later than August 1, 2007.

(d) The department shall develop a cost allocation methodology proposal to meet the requirements described in Engrossed Substitute House Bill No. 2358. The proposal shall be completed and presented to the joint transportation committee no later than August 1, 2007.

(9) \$200,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the initial acquisition of transportation worker identification credentials required by the United States department of homeland security for unescorted access to secure areas of ferries and terminals.

(10) The legislature finds that a rigorous incident investigation process is an essential component of marine safety. The department is directed to review its accident and incident investigation procedures and report the results of its review with any proposals for changes to the legislature by November 1, 2008.

Sec. 225. 2007 c 518 s 226 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--OPERATING**

Multimodal Transportation Account--State Appropriation. . . . .	(( <del>\$37,034,000</del> ))
	<u>\$37,012,000</u>

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

(1) The department shall publish a final long-range plan for Amtrak Cascades by September 30, 2007. By December 31, 2008, the department shall submit to the office of financial management and the transportation committees of the legislature a midrange plan for Amtrak Cascades that identifies specific steps the department would propose to achieve additional service beyond current levels.

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

(b) The department shall negotiate with Amtrak and Burlington Northern Santa Fe to adjust the Amtrak Cascades schedule to leave Bellingham at a significantly earlier hour.

(c) When Amtrak Cascades expands the second roundtrip between Vancouver, B.C. and Seattle, the department shall negotiate for the second roundtrip to leave Bellingham southbound no later than 8:30 a.m.

(3) No Amtrak Cascade runs may be eliminated.

(4) \$40,000 of the multimodal transportation account--state appropriation is provided solely for the produce railcar program. The department is encouraged to implement the produce railcar program by maximizing private investment.

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

Sec. 226. 2007 c 518 s 227 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--OPERATING**

Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$8,630,000</del> ))
	<u>\$8,989,000</u>
Motor Vehicle Account--Federal Appropriation. . . . .	\$2,567,000
TOTAL APPROPRIATION. . . . .	(( <del>\$11,197,000</del> ))
	<u>\$11,556,000</u>

The appropriations in this section are subject to the following conditions and limitations: The department of transportation shall provide up to \$3,450,000 in toll credits to Kitsap transit for passenger-only ferry service. The number of toll credits provided to Kitsap transit must be equal to, but no more than, a number sufficient to meet federal match requirements for grant funding for passenger-only ferry service, but shall not exceed the amount authorized under this section. The department may not allocate, grant, or utilize any state or state appropriated or managed federal funds as match to the federal grant funding on projects to which these toll credits are applied.

**TRANSPORTATION AGENCIES--CAPITAL**

Sec. 301. 2007 c 518 s 301 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL**

State Patrol Highway Account--State Appropriation. . . . .	(( <del>\$2,934,000</del> ))
	<u>\$4,234,000</u>

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

(1) \$2,200,000 is provided solely for the following minor works projects: \$195,000 for HVAC renovation at the Chehalis, Kelso, Okanogan, and Ellensburg detachments; \$50,000 for roof replacements at the Toppenish, Sea Tac NB, Sea Tac SB, and Plymouth weigh stations; \$35,000 for replacement of the Shelton academy roof drain and downspout; \$100,000 for parking lot repairs at Okanogan, Goldendale, Ritzville, and Moses Lake detachment offices and the Wenatchee 6 headquarters; \$290,000 for replacement of the weigh station scales at Brady and Artic; \$152,000 for carpet replacement at the Ritzville, Moses Lake, Morton, Kelso, Chehalis, Walla Walla, Kennewick, South King, and Hoquiam detachment offices; \$185,000 for HVAC replacement at Tacoma and Marysville detachment offices; \$330,000 for repair and upgrade of the Bellevue tower; \$473,000 for replacement of twenty-one communication site underground fuel tanks; \$240,000 for replacement of communication site buildings at Lind, Scoggans Mountain, and Lewiston Ridge; and \$150,000 for unforeseen emergency repairs.

(2) \$687,000 is provided solely for design and construction of regional waste water treatment systems for the Shelton academy of the Washington state patrol.

(3) \$47,000 is provided solely for predesign of a single, consolidated aviation facility at the Olympia airport to house the fixed wing operations of the Washington state patrol, the department of natural resources (DNR), and the department of fish and wildlife, and the rotary operations of the DNR.

(4) \$1,300,000 of the state patrol highway account--state appropriation is provided solely for the acquisition of land adjacent to the Shelton training academy for anticipated expansion; however, the amount provided in this subsection is contingent on the Washington state patrol adding a surcharge to the rates charged to any other agency or entity that uses the academy in an amount sufficient to defray a share of the expansion costs that is proportionate to the relative volume of use of the academy by such agencies or entities. The surcharge imposed must be sufficient to recover the requisite portion of the academy expansion costs within ten years of the effective date of this subsection.

**Sec. 302.** 2007 c 518 s 302 (uncodified) is amended to read as follows:

**FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account--State Appropriation. . . . .	\$64,000,000
Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$2,368,000</del> ))
	<u>\$2,370,000</u>
County Arterial Preservation Account--State Appropriation. . . . .	(( <del>\$32,861,000</del> ))
	<u>\$32,641,000</u>
TOTAL APPROPRIATION. . . . .	(( <del>\$99,229,000</del> ))
	<u>\$99,011,000</u>

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

(1) ((~~\$2,069,000~~)) \$2,370,000 of the motor vehicle account--state appropriation may be used for county ((ferries. The board shall review the requests for county ferry funding in consideration with other projects funded from the board. If the board determines these projects are a priority over the projects in the rural arterial and county arterial preservation grant programs, then they may provide funding for these requests)) ferry projects as set forth in RCW 47.56.725(4).

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

**Sec. 303.** 2007 c 518 s 303 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Small City Pavement and Sidewalk Account--State Appropriation. . . . .	(( <del>\$4,500,000</del> ))
	<u>\$5,900,000</u>
Urban Arterial Trust Account--State Appropriation. . . . .	(( <del>\$129,600,000</del> ))
	<u>\$128,200,000</u>
Transportation Improvement Account--State Appropriation. . . . .	(( <del>\$90,643,000</del> ))
	<u>\$87,143,000</u>
TOTAL APPROPRIATION. . . . .	(( <del>\$224,743,000</del> ))
	<u>\$221,243,000</u>

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

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

(2) The urban arterial trust account--state appropriation includes up to \$15,000,000 in proceeds from the sale of bonds authorized in Substitute House Bill No. 2394. If Substitute House Bill No. 2394 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

**NEW SECTION. Sec. 304.** A new section is added to 2007 c 518 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION.** The nickel and transportation partnership revenue packages were created in 2003 and 2005 to finance transportation construction over a sixteen year period. Since the adoption of the 2003 and 2005 transportation project lists, significant cost increases have resulted from extraordinary inflation. At the same time, motor vehicle fuel prices have risen dramatically, and state and federal gas tax revenues dedicated to paying for these programs are forecasted to decrease over the sixteen year time period. Additional cost increases and eroding revenues will be difficult, if not impossible, to accommodate in the sixteen year financial plan.

As part of its budget submittal for the 2009-2011 biennium, the department of transportation shall prepare information regarding the nickel and transportation partnership funded projects for consideration by the office of financial management and the legislative transportation committees that:

- (1) Compares the original project cost estimates approved in the 2003 and 2005 project list to the completed cost of the project, or the most recent legislatively approved budget and total project costs for projects not yet completed;
  - (2) Identifies highway projects that may be reduced in scope and still achieve a functional benefit;
  - (3) Identifies highway projects that have experienced scope increases and that can be reduced in scope;
  - (4) Identifies highway projects that have lost significant local or regional contributions which were essential to completing the project;
- and
- (5) Identifies contingency amounts allocated to projects.

**Sec. 305.** 2007 c 518 s 304 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)--CAPITAL**

Motor Vehicle Account--State Appropriation. . . . . ~~(\$6,202,000)~~  
\$7,157,000

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

- (1) \$584,000 of the motor vehicle account--state appropriation is for statewide administration.
- (2) ~~(\$750,000)~~ \$803,000 of the motor vehicle account--state appropriation is for regional minor projects.
- (3) \$568,000 of the motor vehicle account--state appropriation is for the Olympic region headquarters property payments.
- (4) By September 1, 2007, the department shall submit to the transportation committees of the legislature predesign plans, developed using the office of financial management's predesign process, for all facility replacement projects to be proposed in the facilities 2008 budget proposal.
- (5) \$1,600,000 of the motor vehicle account--state appropriation is for site acquisition for the Tri-cities area maintenance facility.
- (6) \$2,700,000 of the motor vehicle account--state appropriation is for site acquisition for the Vancouver light industrial facility.
- (7) The department shall work with the office of financial management and staff of the transportation committees of the legislature to develop a statewide inventory of all department-owned surplus property that is suitable for development for department facilities or that should be sold. By December 1, 2008, the department shall report to the joint transportation committee on the findings of this study.
- (8) \$902,000 of the motor vehicle account--state appropriation is for reimbursing the miscellaneous transportation programs account for expenditures for the Olympic region headquarters complex that were incurred in the 2005-07 biennium.

**Sec. 306.** 2007 c 518 s 305 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I**

Transportation Partnership Account--State Appropriation. . . . .	<del>(\$1,226,516,000)</del>
	\$1,123,428,004
Motor Vehicle Account--State Appropriation. . . . .	<del>(\$82,045,000)</del>
	\$86,845,000
Motor Vehicle Account--Federal Appropriation. . . . .	<del>(\$404,090,000)</del>
	\$458,332,000
Motor Vehicle Account--Private/Local Appropriation.. . . .	<del>(\$49,157,000)</del>
	\$64,487,000
Special Category C Account--State Appropriation.. . . .	<del>(\$29,968,000)</del>
	\$29,125,000
<u>Multimodal Transportation Account--Federal Appropriation. . . . .</u>	<u>\$86,100,000</u>
Tacoma Narrows Toll Bridge Account--State Appropriation.. . . .	<del>(\$142,484,000)</del>
	\$32,277,000
Transportation 2003 Account (Nickel Account)--State Appropriation. . . . .	<del>(\$1,100,746,000)</del>
	\$1,147,530,000
<del>(Freight Congestion Relief Account--State Appropriation. . . . .</del>	<del>\$40,000,000)</del>
<u>Freight Mobility Multimodal Account--State Appropriation. . . . .</u>	<u>\$208,000</u>
TOTAL APPROPRIATION. . . . .	<del>(\$3,075,006,000)</del>
	\$3,028,332,004

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

- (1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ~~(2007-1)~~ 2008-1, Highway Improvement Program (I) as developed ~~(April 20, 2007)~~ February 25, 2008, except that funding for project SR 510/Yelm Loop - New alignment (351025A) shall be provided as follows: \$17,697,433 of the transportation partnership account--state appropriation and \$1,293,274 of the motor vehicle account--state appropriation for the 2007-09 biennium, and an additional \$4,346,150 of the transportation partnership account--state appropriation shall also be provided for the 2009-11 biennium. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.
- (2) 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 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.
- (3) Within the amounts provided in this section, ~~(\$1,991,000)~~ \$1,895,000 of the transportation partnership account--state appropriation, ~~(\$1,656,000)~~ \$2,147,000 of the motor vehicle account--federal appropriation, and ~~(\$8,343,000)~~ \$10,331,000 of the transportation 2003 account (nickel account)--state appropriation are for project 109040T as identified in the LEAP transportation document referenced in subsection (1) of this section: I-90/Two Way Transit-Transit and HOV Improvements - Stage 1. Expenditure of the funds on construction is contingent upon revising the access plan for Mercer Island traffic such that Mercer Island traffic will have access to the outer roadway high occupancy vehicle (HOV) lanes during the period of operation of such lanes following the removal of Mercer Island traffic from the center

roadway and prior to conversion of the outer roadway HOV lanes to high occupancy toll (HOT) lanes. Sound transit may only have access to the center lanes when alternative R8A is complete.

(4) The Tacoma Narrows toll bridge account--state appropriation includes up to ~~((\$131,016,000))~~ \$18,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843.

(5) The funding described in this section includes ~~((\$8,095,544))~~ \$36,693,000 of the transportation 2003 account (nickel account)--state appropriation and ~~((\$237,241 of the motor vehicle account--private/local))~~ \$208,000 of the freight mobility multimodal account--state appropriation, which are for the SR 519 project identified as project number 851902A in the LEAP Transportation Document referenced in subsection (1) of this section. The total project is expected to cost no more than \$74,400,000 including ~~((\$11,950,000))~~ \$10,402,000 in contributions from project partners.

(6) To promote and support community-specific noise reduction solutions, the department shall:

(a) Prepare a draft directive that establishes how each community's priorities and concerns may be identified and addressed in order to allow consideration of a community's preferred methods of advanced visual shielding and aesthetic screening, for the purpose of improving the noise environment of major state roadway projects in locations that do not meet the criteria for standard noise barriers. The intent is for these provisions to be supportable by existing project budgets. The directive shall also include direction on the coordination and selection of visual and aesthetic options with local communities. The draft directive shall be provided to the standing transportation committees of the legislature by January 2008; and

(b) Pilot the draft directive established in (a) of this subsection in two locations along major state roadways. If practicable, the department should begin work on the pilot projects while the directive is being developed. One pilot project shall be located in Clark county on a significant capacity improvement project. The second pilot project shall be located in urban King county, which shall be on a corridor highway project through mixed land use areas that is nearing or under construction. The department shall provide a written report to the standing transportation committees of the legislature on the findings of the Clark county pilot project by January 2009, and the King county pilot project by January 2010. Based on results of the pilot projects, the department shall update its design manual, environmental procedures, or other appropriate documents to incorporate the directive.

~~((7))~~ (7) If the "Green Highway" provisions of Engrossed Second Substitute House Bill No. 1303 (cleaner energy) are enacted, the department shall erect signs on the interstate highways included in those provisions noting that these interstates have been designated "Washington Green Highways."

~~((8))~~ (8) If on the I-405/I-90 to SE 8th Street Widening project the department finds that there is an alternative investment to preserve reliable rail accessibility to major manufacturing sites within the I-405 corridor that are less expensive than replacing the Wilburton Tunnel, the department may enter into the necessary agreements to implement that alternative provided that costs remain within the approved project budget.

~~((9))~~ (9) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P, including, but not limited to, the SR 518, SR 519, SR 520, and Alaskan Way Viaduct projects.

~~((10))~~ (10) \$250,000 of the motor vehicle account--state appropriation ~~((is))~~ and \$213,000 of the motor vehicle account--federal appropriation are provided solely for an inland pacific hub study to develop an inland corridor for the movement of freight and goods to and through eastern Washington; and \$500,000 of the motor vehicle account--state appropriation is provided solely for the SR3/SR16 corridor study to plan and prioritize state and local improvements needed over the next 10-20 years to support safety, capacity development, and economic development within the corridor.

~~((11))~~ (11) The department shall, on a quarterly basis beginning July 1, 2007, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account and transportation 2003 account (nickel account) projects relating to bridge rail, guard rail, fish passage barrier removal, and roadside safety projects should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

~~((12))~~ (12) The department shall apply for the competitive portion of federal transit administration funds for eligible transit-related costs of the SR 520 bridge replacement and HOV project. The federal funds described in this subsection shall not include those federal transit administration funds distributed by formula.

~~((13))~~ (13) Funding provided by this act for the Alaskan Way Viaduct project shall not be spent for preliminary engineering, design, right-of-way acquisition, or construction on the project if completion of the project would more likely than not reduce the capacity of the facility. Capacity shall be measured by including the consideration of the efficient movement of people and goods on the facility.

~~((14))~~ (14) The governor shall convene a collaborative process involving key leaders to determine the final project design for the Alaskan Way Viaduct.

(a) The process shall be guided by the following common principles: Public safety must be maintained; the final project shall meet both capacity and mobility needs; and taxpayer dollars must be spent responsibly.

(b) The state's project expenditures shall not exceed \$2,800,000,000.

(c) A final design decision shall be made by December 31, 2008.

~~((15))~~ (15) During the 2007-09 biennium, the department shall proceed with a series of projects on the Alaskan Way Viaduct that are common to any design alternative. Those projects include relocation of two electrical transmission lines, Battery Street tunnel upgrades, seismic upgrades from Lenora to the Battery Street tunnel, viaduct removal from Holgate to King Street, and development of transit enhancements and

other improvements to mitigate congestion during construction. However, the department shall not be responsible for funding any cost increases on any early action projects for which it is not the lead agency, and funds shall not be expended by the department on the early action item project six - transit enhancements and other capital improvements until the following conditions have been met:

(a) The city of Seattle signs an agreement with the department waiving construction permit fees and lost parking meter revenue that will likely occur during construction of the Alaskan Way viaduct replacement projects; and

(b) The city of Seattle and the department determine the appropriate cost allocation for public utilities removal and replacement on the Alaskan Way viaduct replacement project, and report to the joint transportation committee by September 30, 2008, on a proposed cost sharing allocation.

~~((18))~~ The entire freight congestion relief account--state appropriation is contingent upon the enactment during the 2007-2009 fiscal biennium of a bill, resulting from the study established in Substitute Senate Bill No. 5207, that makes available funding to support project expenditures funded from the freight congestion relief account created in Substitute Senate Bill No. 5207. If such a funding bill is not enacted by June 30, 2009, the entire freight congestion relief account--state appropriation shall lapse.

~~((19))~~ (16) The transportation 2003 account (nickel account)--state appropriation includes up to ~~((874,610,000))~~ \$817,264,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

~~((20))~~ (17) The transportation partnership account--state appropriation includes up to ~~((900,000,000))~~ \$722,170,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

~~((21))~~ (18) The special category C account--state appropriation includes up to ~~((22,080,000))~~ \$22,517,000 in proceeds from the sale of bonds authorized in Substitute House Bill No. 2394. If Substitute House Bill No. 2394 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

~~((22))~~ (19) \$4,500,000 of the motor vehicle account--federal appropriation is provided solely for cost increases on the SR 304/Bremerton tunnel project.

~~((23))~~ ~~\$3,000,000~~ (20) \$2,071,000 of the motor vehicle account--~~((state))~~ federal appropriation is provided solely for initial design and right of way work on a new southbound SR 509 to eastbound SR 518 freeway-to-freeway elevated ramp.

~~((24))~~ (21) \$500,000 of the motor vehicle account--federal appropriation to the SR 543/I-5 to Canadian border project is provided solely for retaining wall facia improvements.

~~((25))~~ ~~\$1,400,000~~ (22) \$950,000 of the motor vehicle account--federal appropriation ~~((is))~~ and \$24,000 of the motor vehicle account--state appropriation are provided solely for the Westview school noise wall.

~~((26))~~ (23) \$1,600,000 of the motor vehicle account--~~((federal))~~ state appropriation is provided solely for two noise walls on SR 161 in King county.

~~((27))~~ (24) ~~((900,000))~~ \$20,000 of the motor vehicle account-- state appropriation and ~~((100,000))~~ \$280,000 of the motor vehicle account--federal appropriation are provided solely for interchange design and planning work on US 12 at A street and tank farm road.

(25) The funding described in this section includes \$19,939,000 of the transportation partnership account--state appropriation, \$29,000 of the motor vehicle account--state appropriation, \$308,000 of the motor vehicle account--private/local appropriation, and \$17,900,000 of the motor vehicle account--federal appropriation for the I-5/Columbia river crossing/Vancouver project. The funding described in this subsection includes up to \$15,000,000 awarded to Washington and Oregon jointly through the U.S. department of transportation corridors of the future program in the 2007 federal highway authority discretionary fund allocations.

(26) The department shall study any outstanding issues, including financial issues that may apply to the I-5/Columbia river crossing/Vancouver project. The department's efforts must include an analysis of current bi-state efforts in planning, coordination, and funding for the project; opportunities for the joining of state and local government agencies and the private sector in a strong partnership that contributes to the completion of the project; and opportunities to work with the congressional delegations of Oregon and Washington to provide federal funding and other assistance that will advance this project of national and regional significance.

(27) \$1,500,000 of the motor vehicle account--federal appropriation and \$4,908,000 of the transportation partnership account--state appropriation are provided solely for project 109040Q as identified in the LEAP transportation document in subsection (1) of this section: I-90/Two-Way Transit-Transit and HOV Improvements, Stages 2 and 3. Of these amounts, up to \$550,000 of the transportation partnership account--state appropriation is to provide funding for an independent technical review, overseen by the joint transportation committee, of light rail impacts on the Interstate 90 - Homer Hadley Floating Bridge. The technical review shall complement sound transit's current and planned engineering design work to expand light rail in the central Puget Sound region. The department shall coordinate its work with sound transit and seek contributions from sound transit for the review.

(28) \$700,000 of the motor vehicle account--state appropriation is provided solely for a westbound passing lane west of Sultan on US Highway 2. Additional project funding of \$4,300,000 is assumed in the 2009-2011 biennium, bringing the total project funding to \$5,000,000. This high priority safety project will provide a safe passing lane, reducing head-on and crossover collisions as well as improving safety and mobility.

(29) An additional \$500,000 of the transportation partnership account--state appropriation is provided solely for SR 302/Elgin Clifton road to SR 16 (330216A).

(30) An additional \$1,000,000 of the motor vehicle account--state appropriation is provided solely for the SR 28/ E End of the George Sellar bridge (202802V).

(31) An additional \$1,500,000 of the motor vehicle account--state appropriation is provided solely for the SR 28/E End of the George Sellar bridge (202802V) for the purpose of funding a pedestrian tunnel connection. This funding is provided in anticipation of a federal grant specific to this project, which, if received, must be used to reimburse the state funding provided in this subsection.

Sec. 307. 2007 c 518 s 306 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--PRESERVATION--PROGRAM P**

Transportation Partnership Account--State Appropriation. . . . .	(\$220,164,000)
	\$181,666,000
Motor Vehicle Account--State Appropriation. . . . .	(\$71,392,000)
	\$86,540,000
Motor Vehicle Account--Federal Appropriation. . . . .	(\$425,161,000)
	\$463,338,000
Motor Vehicle Account--Private/Local Appropriation. . . . .	(\$15,285,000)
	\$18,138,000
Transportation 2003 Account (Nickel Account)--State Appropriation. . . . .	(\$5,122,000)
	\$11,136,000
Puyallup Tribal Settlement Account--State Appropriation. . . . .	(\$11,000,000)
	\$12,500,000
TOTAL APPROPRIATION. . . . .	(\$748,124,000)
	\$773,318,000

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

(1) Except as provided otherwise in this section, the entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document (~~(2007-1)~~) 2008-1, Highway Preservation Program (P) as developed (~~(April 20, 2007)~~) February 25, 2008. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) (~~(\$295,000)~~) \$287,000 of the motor vehicle account--federal appropriation and (~~(\$5,000)~~) \$11,000 of the motor vehicle account--state appropriation are provided solely for the department to determine the most cost efficient way to replace the current Keller ferry. Options reviewed shall not include an expansion of the current capacity of the Keller ferry.

(3) (~~(\$5,513,000)~~) \$5,308,000 of the transportation partnership account--state appropriation is provided solely for the purposes of settling all identified and potential claims from the Lower Elwha Klallam Tribe related to the construction of a graving dock facility on the graving dock property. In the matter of *Lower Elwha Klallam Tribe et al v. State et al*, Thurston county superior court, cause no. 05-2-01595-8, the Lower Elwha Klallam Tribe and the state of Washington entered into a settlement agreement that settles all claims related to graving dock property and associated construction and releases the state from all claims related to the construction of the graving dock facilities. The expenditure of this appropriation is contingent on the conditions and limitations set forth in subsections (a) and (b) of this subsection.

(a) \$2,000,000 of the transportation partnership account--state appropriation is provided solely for the benefit of the Lower Elwha Klallam Tribe to be disbursed by the department in accordance with terms and conditions of the settlement agreement.

(b) (~~(\$3,513,000)~~) \$3,308,000 of the transportation partnership account--state appropriation is provided solely for the department's remediation work on the graving dock property in accordance with the terms and conditions of the settlement agreement.

(4) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P, including, but not limited to, the SR 518, SR 519, SR 520, and Alaskan Way Viaduct projects.

(5) The department shall, on a quarterly basis beginning July 1, 2007, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account projects relating to seismic bridges should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

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

(7) (~~(\$2,604,501)~~) \$13,257,000 of the motor vehicle account--federal appropriation and (~~(\$3,000,000)~~) \$5,000,000 of the motor vehicle account--state appropriation are for expenditures on damaged state roads due to flooding, mudslides, rock fall, or other unforeseen events.

(8) (~~(\$9,665)~~) \$188,000 of the motor vehicle account--state appropriation, (~~(\$12,652,812)~~) \$28,749,000 of the motor vehicle account--federal appropriation, and (~~(\$138,174,581)~~) \$105,653,000 of the transportation partnership account--state appropriation are provided solely for the Hood Canal bridge project.

(9) \$12,500,000 of the Puyallup tribal settlement account--state appropriation is provided solely for mitigation costs associated with the Murray Morgan/11th Street Bridge demolition. The department may negotiate with the city of Tacoma for the purpose of transferring ownership of the Murray Morgan/11th Street Bridge to the city. If the city agrees to accept ownership of the bridge, the department may use the Puyallup tribal settlement account appropriation and other appropriated funds for bridge rehabilitation, bridge replacement, bridge demolition, and related mitigation. In no event shall the department's participation exceed \$27,451,000. No funds may be expended unless the city of Tacoma agrees to take ownership of the bridge in its entirety and provides that the payment of these funds extinguishes any real or implied agreements regarding future bridge expenditures.

**Sec. 308.** 2007 c 518 s 307 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q--CAPITAL**

Motor Vehicle Account--State Appropriation. . . . .	(( <del>\$9,212,000</del> ))
	<u>\$9,462,000</u>
Motor Vehicle Account--Federal Appropriation. . . . .	\$15,951,000
Motor Vehicle Account--Private/Local Appropriation. . . . .	\$74,000
TOTAL APPROPRIATION. . . . .	(( <del>\$25,237,000</del> ))
	<u>\$25,487,000</u>

The appropriations in this section are subject to the following conditions and limitations: The motor vehicle account--state appropriation includes ((~~\$8,833,000~~)) \$8,959,335 provided solely for state matching funds for federally selected competitive grant or congressional earmark projects. These moneys shall be placed into reserve status until such time as federal funds are secured that require a state match.

Sec. 309. 2007 c 518 s 308 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W**

Puget Sound Capital Construction Account--State Appropriation. . . . .	(( <del>\$139,139,000</del> ))
	<u>\$143,155,000</u>
Puget Sound Capital Construction Account--Federal Appropriation. . . . .	(( <del>\$66,145,000</del> ))
	<u>\$43,979,000</u>
Puget Sound Capital Construction Account--Private/Local Appropriation. . . . .	<u>\$2,089,000</u>
Multimodal Transportation Account--State Appropriation. . . . .	\$4,100,000
Transportation 2003 Account (Nickel Account)--State Appropriation. . . . .	(( <del>\$76,525,000</del> ))
	<u>\$51,431,000</u>
TOTAL APPROPRIATION. . . . .	(( <del>\$285,909,000</del> ))
	<u>\$244,754,000</u>

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

(1) ((~~\$6,432,000~~)) \$36,500,000 of the Puget Sound capital construction account--state appropriation is provided solely for ((~~emergency capital costs~~)) project 944470A as identified in the LEAP Transportation Document 2008-1, Ferries Construction Program (W) as developed February 25, 2008, for the construction of three marine vessels to replace the steel electric auto ferry vessels. The document includes a total of \$84,500,000 for these replacement vessels.

(2) ((~~\$16,567,000~~)) \$22,922,823 of the Puget Sound capital construction account--state appropriation ((~~and~~)) \$4,100,000 of the multimodal transportation account--state appropriation, \$5,410,000 of the transportation 2003 account (nickel account)--state appropriation, \$4,490,000 of the Puget Sound capital construction account--federal appropriation, and \$2,089,000 of the Puget Sound capital construction account--private/local appropriation are provided solely for the terminal projects listed:

- (a) Anacortes ferry terminal - utilities work; right-of-way purchase for a holding area during construction; and completion of design and permitting on the terminal building, pick-up and drop-off sites, ((~~and~~)) pedestrian and bicycle facilities, and paving;
- (b) Bainbridge Island ferry terminal - environmental planning and a traffic signalization project in the vicinity of SR 305 Harborview drive;
- (c) Bremerton ferry terminal - overhead loading control system and moving the terminal agent's office;
- (d) Clinton ferry terminal - septic system replacement;
- (e) Edmonds ferry terminal - right-of-way acquisition costs ((~~and~~)) federal match requirements, and removal of Unocal Pier;
- (f) Friday Harbor ferry terminal - parking resurfacing;
- (g) Keystone and Port Townsend ferry terminals - route environmental planning;
- (h) Kingston ferry terminal - transfer span retrofit and overhead vehicle holding control system modifications;
- (i) Mukilteo ferry terminal - right-of-way acquisition, archaeological studies, ((~~and~~)) environmental planning, and additional vehicle holding;
- (j) Orcas ferry terminal - dolphin replacement;
- (k) Port Townsend ferry terminal - wingwall replacement, interim holding, tie-up slip, and initial reservation system;
- ((~~(k)~~)) (l) Seattle ferry terminal - environmental planning, coordination with local jurisdictions, ((~~and~~)) coordination with highway projects, and contractor payment for automated re-entry gates; ((~~and~~
- ~~((~~(h)~~))~~ (m) Southworth ferry terminal - federal grant to conduct preliminary studies and planning for a 2nd operating slip; and
- (n) Vashon Island and Seattle ferry terminals - modify the passenger-only facilities.

((~~(4)~~)) (3) \$46,020,666 of the transportation 2003 account (nickel account)--state appropriation and ((~~\$50,985,000~~)) \$3,750,000 of the Puget Sound capital construction account--((state)) federal appropriation are provided solely for the procurement of ((~~four~~)) up to three 144-vehicle auto-passenger ferry vessels.

((~~(5)~~)) (4) \$18,716,000 of the Puget Sound capital construction account--state appropriation is provided solely for the Eagle Harbor maintenance facility preservation project. These funds may not be used for relocating any warehouses not currently on the Eagle Harbor site.

((~~(6)~~)) (5) The department shall research an asset management system to improve Washington state ferries' management of capital assets and the department's ability to estimate future preservation needs. The department shall report its findings regarding a new asset management system to the governor and the transportation committees of the legislature no later than January 15, 2008.

((~~(7)~~)) (6) The department shall sell the M.V. Chinook and M.V. Snohomish passenger-only fast ferries as soon as practicable and deposit the proceeds of the sales into the passenger ferry account created in RCW 47.60.645. Once the department ceases to provide passenger-only

ferry service, the department shall sell the M.V. Kalama and M.V. Skagit passenger-only ferries and deposit the proceeds of the sales into the passenger ferry account created in RCW 47.60.645.

~~((8))~~ (7) The department shall, on a quarterly basis beginning July 1, 2007, provide to the office of financial management and the legislature reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2007-09 fiscal biennium. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS).

(8) The department of transportation is authorized to sell up to \$90,000,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

(9) The department shall review the costs and benefits of continued use of the primavera scheduling system in the Washington state ferries marine division and include that review with its 2009-2011 budget submittal.

(10) The department shall review staffing in its capital engineering divisions to ensure core competency in, and a focus on, terminal and vessel preservation, with staffing sufficient to implement the preservation program in the capital plan. The department shall not fill any current or future vacancies in the capital program until the completion of the capital plan.

(11) The department shall submit a plan for the disposal or sale of the four steel electric auto-ferry vessels to the joint transportation committee by July 1, 2008.

**Sec. 310.** 2007 c 518 s 309 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--CAPITAL**

Essential Rail Assistance Account--State Appropriation. . . . .	\$500,000
<del>((Freight Congestion Relief Account--State Appropriation. . . . .</del>	<del>(\$25,000,000)</del>
Transportation Infrastructure Account--State Appropriation. . . . .	<del>(\$2,500,000)</del>
	<u>\$1,713,000</u>
<u>Transportation Infrastructure Account--Federal Appropriation. . . . .</u>	<u>\$787,000</u>
Multimodal Transportation Account--State Appropriation. . . . .	<del>(\$154,637,000)</del>
	<u>\$165,492,000</u>
Multimodal Transportation Account--Federal Appropriation. . . . .	<del>(\$30,450,000)</del>
	<u>\$33,906,000</u>
Multimodal Transportation Account--Private/Local Appropriation. . . . .	<del>(\$7,894,000)</del>
	<u>\$2,659,000</u>
TOTAL APPROPRIATION. . . . .	<del>(\$220,981,000)</del>
	<u>\$205,057,000</u>

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

(1)(a) Except as provided otherwise in ~~((subsection (8) of))~~ this section, the entire appropriations in this section are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document ~~((2007-1))~~ 2008-1, Rail Capital Program (Y) as developed ~~((April 20, 2007))~~ February 25, 2008. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(b) Within the amounts provided in this section, ~~(\$2,500,000)~~ \$1,500,000 of the transportation infrastructure account--state appropriation ~~((is))~~ and \$787,000 of the transportation infrastructure account--federal appropriation are for low-interest loans for rail capital projects through the freight rail investment bank program. The department shall issue a call for projects based upon the legislative priorities specified in subsection (7)(a) of this section. Application must be received by the department by ~~((November 1, 2007))~~ October 1, 2008. By ~~((December 1, 2007))~~ November 1, 2008, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature. The department shall award low-interest loans to the port of Moses Lake in the amount of \$213,000, and based upon the prioritized list of rail capital projects most recently submitted to the legislature pursuant to this subsection, as follows: Port of Benton County (\$250,000); Port of Everett (\$250,000); Central Terminals, LLC (\$250,000); Tacoma Rail--Maintenance Facility (\$250,000); NW Container Service (\$250,000); Port of Chehalis (\$250,000); Ballard Terminal Railroad (\$250,000); Eastern Washington Gateway Railroad (\$36,875); Spokane County (\$250,000); Tacoma Rail--Locomotive Idling (\$250,000).

(c) Within the amounts provided in this section, ~~(\$3,335,000)~~ \$2,561,000 of the multimodal transportation account--state appropriation is for statewide - emergent freight rail assistance projects. However, the department shall perform a cost/benefit analysis of the projects according to the legislative priorities specified in subsection (7)(a) of this section, and shall give priority to the following projects: Rail - Tacoma rail yard switching upgrades (\$500,000); Rail - Port of Ephrata spur rehabilitation (\$127,000); Rail - Lewis and Clark rail improvements (\$1,100,000); Rail - Port of Grays Harbor rail access improvements (\$543,000); and Rail - Port of Longview rail loop construction (\$291,000) ~~((; and Rail - Port of Chehalis (\$774,000))~~). If the relative cost of any of the six projects identified in this subsection (1)(c) is not substantially less than the public benefits to be derived from the project, then the department shall not assign the funds to the project, and instead shall use those funds toward those projects identified by the department in the attachments to the "Washington State Department of Transportation FREIGHT RAIL ASSISTANCE FUNDING PROGRAM: 2007-2009 Prioritized Project List and Program Update" dated December 2006 for which the proportion of public benefits to be gained compared to the cost of the project is greatest.

(d) ~~((Within the amounts provided in this section, \$25,000,000 of the freight congestion relief account--state appropriation is for modifications to the Stampede Pass rail tunnel to facilitate the movement of double stacked rail cars. The department shall quantify and report to the legislature by December 1, 2007, the volume of freight traffic that would likely be shipped by rail rather than trucks if the Stampede Pass rail tunnel were modified to accommodate double stacked rail cars.~~

~~(e))~~ Within the amounts provided in this section, ~~((200,000))~~ \$339,000 of the multimodal transportation account--state appropriation is for rescoping and completion of a programmatic EIS for the Kelso to Martin's Bluff - 3rd Mainline and Storage Tracks project. The rescoped project may include funds that are committed to the project by local or private funding partners. However, the rescoped project must be capable of being completed with not more than \$49,470,000 in future state funding, inclusive of inflation costs. Subject to this funding constraint, the rescoped project must maximize capacity improvements along the rail mainline.

~~((f))~~ (e) Within the amounts provided in this section, \$3,600,000 of the multimodal transportation account--state appropriation is for work items on the Palouse River and Coulee City Railroad lines.

(2) The multimodal transportation account--state appropriation includes up to ~~((137,620,000))~~ \$144,500,000 in proceeds from the sale of bonds authorized by RCW 47.10.867.

(3) The department is directed to seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Program Y, including, but not limited to the "Tacoma -- bypass of Pt. Defiance" project.

(4) If new federal funding for freight or passenger rail is received, the department shall consult with the transportation committees of the legislature and the office of financial management prior to spending the funds on existing or additional projects.

(5) The department shall sell any ancillary property, acquired when the state purchased the right-of-ways to the PCC rail line system, to a lessee of the ancillary property who is willing to pay fair market value for the property. The department shall deposit the proceeds from the sale of ancillary property into the transportation infrastructure account.

~~(6) ((The entire freight congestion relief account--state appropriation is contingent upon the enactment during the 2007-2009 fiscal biennium of a bill, resulting from the study established in Substitute Senate Bill No. 5207, that makes available funding to support project expenditures funded from the freight congestion relief account created in Substitute Senate Bill No. 5207. If such a funding bill is not enacted by June 30, 2009, the entire freight congestion relief account--state appropriation shall lapse.~~

~~(7))~~ (a) The department shall develop and implement the benefit/impact evaluation methodology recommended in the statewide rail capacity and needs study finalized in December 2006. The benefit/impact evaluation methodology shall be developed using the following priorities, in order of relative importance:

- (i) Economic, safety, or environmental advantages of freight movement by rail compared to alternative modes;
- (ii) Self-sustaining economic development that creates family-wage jobs;
- (iii) Preservation of transportation corridors that would otherwise be lost;
- (iv) Increased access to efficient and cost-effective transport to market for Washington's agricultural and industrial products;
- (v) Better integration and cooperation within the regional, national, and international systems of freight distribution; and
- (vi) Mitigation of impacts of increased rail traffic on communities.

(b) The department shall convene a work group to collaborate on the development of the benefit/impact analysis method to be used in the evaluation. The work group must include, at a minimum, the freight mobility strategic investment board, the department of agriculture, and representatives from the various users and modes of the state's rail system.

(c) The department shall use the benefit/impact analysis and priorities in (a) of this subsection when submitting requests for state funding for rail projects. The department shall develop a standardized format for submitting requests for state funding for rail projects that includes an explanation of the analysis undertaken, and the conclusions derived from the analysis.

(d) The department and the freight mobility strategic investment board shall collaborate to submit a report to the office of financial management and the transportation committees of the legislature by September 1, 2008, listing proposed freight highway and rail projects. The report must describe the analysis used for selecting such projects, as required by this act for the department and as required by chapter 47.06A RCW for the board. When developing its list of proposed freight highway and rail projects, the freight mobility strategic investment board shall use the priorities identified in (a) of this subsection to the greatest extent possible.

~~((8) \$5,000,000 of the multimodal transportation account--state appropriation is reappropriated and provided solely for the costs of acquisition of the PCC railroad associated with the memorandum of understanding (MOU), which was executed between Washington state and Wateco. Total costs associated with the MOU shall not exceed \$10,937,000.))~~

(7) The department shall apply at the earliest possible date for grants, pursuant to the new competitive intercity rail grant program announced by the federal railroad administration on February 19, 2008, for any projects that may qualify for such federal grants and are currently identified on the project list referenced in subsection (1)(a) of this section.

(8) Up to \$8,500,000 of any state funding designated on the project list referenced in subsection (1)(a) of this section for the "Vancouver-Rail Bypass and W 39th Street Bridge" project may be used to upgrade, to class 2 condition, track owned by Clark county between Vancouver and Battle Ground.

**Sec. 311.** 2007 c 518 s 310 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--CAPITAL**

Highway Infrastructure Account--State Appropriation. . . . .	\$207,000
Highway Infrastructure Account--Federal Appropriation. . . . .	\$1,602,000
Freight Mobility Investment Account--State Appropriation. . . . .	<del>((12,500,000))</del>
	<u>\$12,378,000</u>
<del>((Freight Congestion Relief Account--State Appropriation. . . . .</del>	<del>((46,720,000))</del>
Transportation Partnership Account--State Appropriation. . . . .	<del>((2,906,000))</del>
	<u>\$3,906,000</u>
Motor Vehicle Account--State Appropriation. . . . .	<del>((9,854,000))</del>
	<u>\$12,273,000</u>
Motor Vehicle Account--Federal Appropriation. . . . .	<del>((60,150,000))</del>

	<u>\$62,222,000</u>
Freight Mobility Multimodal Account--State Appropriation. . . . .	(( <del>\$12,100,000</del> ))
	<u>\$12,750,000</u>
<u>Freight Mobility Multimodal Account--Private/Local Appropriation. . . . .</u>	<u>\$3,755,000</u>
Multimodal Transportation Account--Federal Appropriation. . . . .	(( <del>\$3,500,000</del> ))
	<u>\$4,180,000</u>
Multimodal Transportation Account--State Appropriation. . . . .	(( <del>\$33,158,000</del> ))
	<u>\$32,134,000</u>
Transportation 2003 Account (Nickel Account)--State Appropriation. . . . .	(( <del>\$2,706,000</del> ))
	<u>\$2,721,000</u>
Passenger Ferry Account--State Appropriation. . . . .	<u>\$8,500,000</u>
TOTAL APPROPRIATION. . . . .	(( <del>\$193,903,000</del> ))
	<u>\$156,628,000</u>

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

(1) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists incorporated in this section. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system (TEIS).

(2) \$8,500,000 of the passenger ferry account--state appropriation is provided solely for near and long-term costs of capital improvements in a business plan approved by the governor for passenger ferry service.

(3) The department shall seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(4) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(5) Federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the office of financial management and the transportation committees of the legislature by December 1, 2007, and December 1, 2008.

(6) The city of Winthrop may utilize a design-build process for the Winthrop bike path project. Of the amount appropriated in this section for this project, \$500,000 of the multimodal transportation account--state appropriation is contingent upon the state receiving from the city of Winthrop \$500,000 in federal funds awarded to the city of Winthrop by its local planning organization.

(7) ~~((~~\$7,000,000~~))~~ \$11,591,224 of the multimodal transportation account--state appropriation, ~~((~~\$7,000,000~~))~~ \$8,640,239 of the motor vehicle account--federal appropriation, and \$4,000,000 of the motor vehicle account--federal appropriation are provided solely for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in the LEAP Transportation Document 2007-A, pedestrian and bicycle safety program projects and safe routes to schools program projects as developed April 20, 2007. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

(8) Up to a maximum of \$5,000,000 of the multimodal transportation account--state appropriation and up to a maximum of \$2,000,000 of the motor vehicle account--federal appropriation are reappropriated for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in the LEAP transportation document 2006-B, pedestrian and bicycle safety program projects and safe routes to schools program projects as developed March 8, 2006. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

~~(9) ((The entire freight congestion relief account--state appropriation is contingent upon the enactment during the 2007-2009 fiscal biennium of a bill, resulting from the study established in Substitute Senate Bill No. 5207, that makes available funding to support project expenditures funded from the freight congestion relief account created in Substitute Senate Bill No. 5207. If such a funding bill is not enacted by June 30, 2009, the entire freight congestion relief account--state appropriation shall lapse.~~

~~---((10))~~ \$3,500,000 of the multimodal transportation account--federal appropriation is provided solely for the Museum of Flight pedestrian bridge safety project.

~~(((11)))~~ (10) \$250,000 of the multimodal transportation account--state appropriation is provided solely for the icicle rail station in Leavenworth.

~~(((12)))~~ (11) \$1,500,000 of the motor vehicle account--state appropriation is provided solely for the Union Gap city road project.

~~((13) \$350,000)~~ (12) \$250,000 of the motor vehicle account--state appropriation is provided solely for the Saltwater state park bridge project and off-site traffic control costs.

~~((14))~~ (13) \$1,000,000 of the motor vehicle account--state appropriation ~~((is))~~ and \$4,688,000 of the motor vehicle account--federal appropriation are provided solely for the coal creek parkway project.

~~((15))~~ (14) \$250,000 of the multimodal transportation account--state appropriation is provided solely for a streetcar feasibility study in downtown Spokane.

~~((16))~~ (15) \$500,000 of the motor vehicle account--~~(state)~~ federal appropriation is provided solely for ~~((the))~~ slide repairs completed during 2007 and 2008 at or in the vicinity of marine view drive bridge ~~((project))~~ on Marine View Drive and on Des Moines Memorial Drive in Des Moines.

(16) \$1,100,000 of the motor vehicle account--state appropriation is provided solely for local road improvements that connect to the SR I-82 valley mall boulevard project (5082010). Planned funding of an additional \$2,000,000 shall be made available to this project in the 2009-11 biennium.

(17) \$2,400,000 of the motor vehicle account--state appropriation is provided solely for completion of the riverside avenue extension project in the city of Spokane.

**TRANSFERS AND DISTRIBUTIONS**

**Sec. 401.** 2007 c 518 s 401 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE**

Highway Bond Retirement Account Appropriation.....	(( <del>\$570,030,000</del> ))
	<u>\$530,160,000</u>
Ferry Bond Retirement Account Appropriation.....	(( <del>\$38,059,000</del> ))
	<u>\$37,380,000</u>
Transportation Improvement Board Bond Retirement Account--State Appropriation.....	(( <del>\$27,749,000</del> ))
	<u>\$26,462,000</u>
Nondebt-Limit Reimbursable Account Appropriation.....	(( <del>\$19,359,000</del> ))
	<u>\$11,194,000</u>
Transportation Partnership Account--State Appropriation.....	(( <del>\$6,694,000</del> ))
	<u>\$4,838,000</u>
Motor Vehicle Account--State Appropriation.....	(( <del>\$986,000</del> ))
	<u>\$1,011,000</u>
Transportation Improvement Account--State Appropriation.....	(( <del>\$68,000</del> ))
	<u>\$59,000</u>
Multimodal Transportation Account--State Appropriation.....	(( <del>\$1,032,000</del> ))
	<u>\$1,373,000</u>
Transportation 2003 Account (Nickel Account)--State Appropriation.....	(( <del>\$6,560,000</del> ))
	<u>\$5,468,000</u>
Urban Arterial Trust Account--State Appropriation.....	(( <del>\$473,000</del> ))
	<u>\$113,000</u>
Special Category C Account Appropriation.....	(( <del>\$160,000</del> ))
	<u>\$233,000</u>
TOTAL APPROPRIATION.....	(( <del>\$671,170,000</del> ))
	<u>\$618,291,000</u>

**Sec. 402.** 2007 c 518 s 402 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES**

Transportation Partnership Account--State Appropriation.....	(( <del>\$2,254,000</del> ))
	<u>\$315,000</u>
Motor Vehicle Account--State Appropriation.....	(( <del>\$329,000</del> ))
	<u>\$60,000</u>
Transportation Improvement Account--State Appropriation.....	(( <del>\$5,000</del> ))
	<u>\$3,000</u>
Multimodal Transportation Account--State Appropriation.....	(( <del>\$130,000</del> ))
	<u>\$72,000</u>
Transportation 2003 Account (Nickel Account)--State Appropriation.....	(( <del>\$2,187,000</del> ))
	<u>\$357,000</u>
Urban Arterial Trust Account--State Appropriation.....	(( <del>\$38,000</del> ))
	<u>\$7,000</u>
Special Category C Account--State Appropriation.....	(( <del>\$53,000</del> ))

TOTAL APPROPRIATION.....	\$13,000 (( <del>\$4,996,000</del> )) <u>\$827,000</u>
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**Sec. 403.** 2007 c 518 s 403 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS**

(1) Motor Vehicle Account--State Reappropriation:

For transfer to the Tacoma Narrows Toll Bridge Account.....	(( <del>\$131,016,000</del> )) <u>\$18,000,000</u>
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~~((The department of transportation is authorized to sell up to \$131,016,000 in bonds authorized by RCW 47.10.843 for the Tacoma Narrows bridge project. Proceeds from the sale of the bonds shall be deposited into the motor vehicle account. The department of transportation shall inform the treasurer of the amount to be deposited:))~~

(2) Motor Vehicle Account--State Appropriation:

For transfer to the Puget Sound Capital Construction Account.....	(( <del>\$131,500,000</del> )) <u>\$83,000,000</u>
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~~((The department of transportation is authorized to sell up to \$131,500,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries:))~~

**Sec. 404.** 2007 c 518 s 404 (uncodified) is amended to read as follows:

**THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION**

Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities

and counties.....	(( <del>\$526,320,000</del> )) <u>\$501,783,827</u>
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**Sec. 405.** 2007 c 518 s 405 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--TRANSFERS**

Motor Vehicle Account--State Appropriation: For motor vehicle fuel tax

refunds and statutory transfers.....	(( <del>\$937,181,000</del> )) <u>\$918,908,000</u>
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**Sec. 406.** 2007 c 518 s 406 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING--TRANSFERS**

Motor Vehicle Account--State Appropriation: For ~~((motor vehicle fuel tax refunds and transfers))~~ statutory license, permit, and fee distributions to other accounts.

.....	(( <del>\$346,657,000</del> )) <u>\$333,207,000</u>
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**Sec. 407.** 2007 c 518 s 407 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER--ADMINISTRATIVE TRANSFERS**

(1) Recreational Vehicle Account--State Appropriation: For transfer to the Motor Vehicle Account--State.....	(( <del>\$3,005,000</del> )) <u>\$4,505,000</u>
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(2) License Plate Technology Account--State Appropriation: For the Multimodal Transportation Account--State.....	\$4,500,000
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(3) Motor Vehicle Account--State Appropriation:

For transfer to the High-Occupancy Toll Lanes Operations--State Account.....	\$3,000,000
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(4) Motor Vehicle Account--State Appropriation:

For transfer to the Puget Sound Capital Construction Account--State.....	(( <del>\$20,000,000</del> )) <u>\$28,000,000</u>
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(5) Multimodal Transportation Account--State Appropriation: For transfer to the Puget Sound

Ferry Operations Account--State.....	(( <del>\$39,000,000</del> )) <u>\$66,000,000</u>
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(6) Advanced Right-of-Way Revolving Account--State Appropriation: For transfer to the Motor Vehicle Account--State.....	\$30,000,000
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(7) Waste Tire Removal Account--State Appropriation:

For transfer to the Motor Vehicle Account--State.....	\$5,600,000
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(8) Motor Vehicle Account--State Appropriation:

For transfer to the Transportation Partnership Account--State.....	(( <del>\$25,000,000</del> )) <u>\$18,000,000</u>
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~~((+0))~~ (9) Multimodal Transportation Account--State Appropriation: For transfer to the Transportation

Infrastructure Account--State.....	(( <del>\$7,000,000</del> ))
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\$6,000,000

~~((H))~~ (10) Highway Safety Account--State Appropriation:

For transfer to the Multimodal Transportation Account--State. . . . . \$9,500,000

(11) Urban Arterial Trust Account--State Appropriation:

For transfer to the Small City Pavement and Sidewalk Account--State. . . . . \$1,400,000

(12) Multimodal Transportation Account--Federal Appropriation: For transfer to the Transportation Infrastructure Account--Federal. . . . . \$1,000,000

The transfers identified in this section are subject to the following conditions and limitations: ~~((a))~~ The amount transferred in subsection (3) of this section may be spent only on "highway purposes" as that term is construed in Article II, section 40 of the Washington state Constitution.

**COMPENSATION**

**Sec. 501.** 2007 c 518 s 501 (uncodified) is amended to read as follows:

**COMPENSATION--NONREPRESENTED EMPLOYEES--INSURANCE BENEFITS.** The appropriations for state agencies, are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$707 per eligible employee for fiscal year 2008. For fiscal year 2009 the monthly employer funding rate shall not exceed ~~((732))~~ \$575 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2008, through December 31, 2008, the subsidy shall be \$165.31. Starting January 1, 2009, the subsidy shall be \$184.26 per month.

**Sec. 502.** 2007 c 518 s 502 (uncodified) is amended to read as follows:

**COMPENSATION--REPRESENTED EMPLOYEES OUTSIDE SUPER COALITION--INSURANCE BENEFITS.** The appropriations for state agencies, are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, for represented employees outside the super coalition under chapter 41.80 RCW, shall not exceed \$707 per eligible employee for fiscal year 2008. For fiscal year 2009 the monthly employer funding rate shall not exceed ~~((732))~~ \$575 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2008, through December 31, 2008, the subsidy shall be \$165.31. Starting January 1, 2009, the subsidy shall be \$184.26 per month.

**Sec. 503.** 2007 c 518 s 503 (uncodified) is amended to read as follows:

**COMPENSATION--REPRESENTED EMPLOYEES--SUPER COALITION.** Collective bargaining agreements negotiated as part of the super coalition under chapter 41.80 RCW include employer contributions to health insurance premiums at 88% of the cost. Funding rates at this level are currently \$707 per month for fiscal year 2008 and ~~((732))~~ \$575 per month for fiscal year 2009. The agreements also include a one-time payment of \$756 for each employee who is eligible for insurance for the month of June, 2007, and is covered by a 2007-2009 collective bargaining agreement pursuant to chapter 41.80 RCW, as well as continuation of the salary increases that were negotiated for the twelve-month period beginning July 1, 2006, and scheduled to terminate June 30, 2007.

**MISCELLANEOUS**

**Sec. 601.** RCW 46.68.110 and 2007 c 148 s 1 are each amended to read as follows:

Funds credited to the incorporated cities and towns of the state as set forth in RCW 46.68.090 shall be subject to deduction and distribution as follows:

(1) One and one-half percent of such sums distributed under RCW 46.68.090 shall be deducted monthly as such sums are credited and set aside for the use of the department of transportation for the supervision of work and expenditures of such incorporated cities and towns on the city and town streets thereof, including the supervision and administration of federal-aid programs for which the department of transportation has responsibility: PROVIDED, That any moneys so retained and not expended shall be credited in the succeeding biennium to the incorporated cities and towns in proportion to deductions herein made;

(2) Thirty-three one-hundredths of one percent of such funds distributed under RCW 46.68.090 shall be deducted monthly, as such funds accrue, and set aside for the use of the department of transportation for the purpose of funding the cities' share of the costs of highway jurisdiction studies and other studies. Any funds so retained and not expended shall be credited in the succeeding biennium to the cities in proportion to the deductions made;

(3) One percent of such funds distributed under RCW 46.68.090 shall be deducted monthly, as such funds accrue, to be deposited in the small city pavement and sidewalk account, to implement the city hardship assistance program, as provided in RCW 47.26.164. However, any moneys so retained and not required to carry out the program under this subsection as of July 1st of each odd-numbered year thereafter, shall be retained in the account and used for maintenance, repair, and resurfacing of city and town streets for cities and towns with a population of less than five thousand.

(4) Except as provided in RCW 47.26.080, after making the deductions under subsections (1) through (3) of this section and RCW 35.76.050, the balance remaining to the credit of incorporated cities and towns shall be apportioned monthly as such funds accrue among the several cities and towns within the state ratably on the basis of the population last determined by the office of financial management.

**NEW SECTION. Sec. 602.** A new section is added to 2007 c 518 (uncodified) to read as follows:

In order to promote the receipt of federal enhancement funds, or other applicable federal or state grant funds, the following portions of highway are designated as part of the scenic and recreational highway system: Beginning at the Anacortes ferry landing, the Washington state ferries Anacortes/San Juan Islands route, which includes stops at Lopez, Shaw, Orcas, and San Juan Islands; and the roads on San Juan and Orcas Islands as described in San Juan Island county council resolution no. 7, adopted February 5, 2008.

**NEW SECTION. Sec. 603.** 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. 604.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

On page 1, line 1 of the title, after "appropriations;" strike the remainder of the title and insert "amending RCW 46.68.110; amending 2007 c 518 ss 101, 102, 103, 104, 105, 106, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 401, 402, 403, 404, 405, 406, 407, 501, 502, and 503 (uncodified); adding new sections to 2007 c 518 (uncodified); making appropriations and authorizing capital improvements; and declaring an emergency."

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House refused to concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2878 and asked the Senate for a conference thereon. The Speaker (Representative Morris presiding) appointed Representatives Clibborn, Jarrett and Ericksen as conferees.

SUBSTITUTE SENATE BILL NO. 6340,  
 SUBSTITUTE SENATE BILL NO. 6423,  
 SUBSTITUTE SENATE BILL NO. 6602,  
 SUBSTITUTE SENATE BILL NO. 6678,  
 SUBSTITUTE SENATE BILL NO. 6726,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

**MESSAGES FROM THE SENATE**

March 10, 2008

Mr. Speaker:

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

SENATE BILL NO. 6739,  
 SUBSTITUTE SENATE BILL NO. 6743,  
 SUBSTITUTE SENATE BILL NO. 6751,  
 SUBSTITUTE SENATE BILL NO. 6761,  
 SUBSTITUTE SENATE BILL NO. 6804,  
 SUBSTITUTE SENATE BILL NO. 6805,  
 SUBSTITUTE SENATE BILL NO. 6807,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6874,  
 SUBSTITUTE SENATE BILL NO. 6932,  
 SUBSTITUTE SENATE BILL NO. 6933,  
 SENATE BILL NO. 6941,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 10, 2008

Mr. Speaker:

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

SUBSTITUTE SENATE BILL NO. 6297,  
 SENATE BILL NO. 6310,  
 SUBSTITUTE SENATE BILL NO. 6328,  
 SENATE BILL NO. 6381,  
 SUBSTITUTE SENATE BILL NO. 6400,  
 SUBSTITUTE SENATE BILL NO. 6439,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6442,  
 SENATE BILL NO. 6447,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6560,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6570,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6580,  
 SUBSTITUTE SENATE BILL NO. 6596,  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6606,  
 SUBSTITUTE SENATE BILL NO. 6607,  
 SECOND SUBSTITUTE SENATE BILL NO. 6626,  
 SUBSTITUTE SENATE BILL NO. 6711,  
 SECOND SUBSTITUTE SENATE BILL NO. 6732,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 10, 2008

Mr. Speaker:

The President has signed:

ENGROSSED SENATE BILL NO. 5927,  
 SENATE BILL NO. 6204,  
 SUBSTITUTE SENATE BILL NO. 6306,  
 SUBSTITUTE SENATE BILL NO. 6317,

**MESSAGE FROM THE SENATE**

March 7, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2624 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 68.50 RCW to read as follows:

(1) It is the duty of every person who knows of the existence and location of skeletal human remains to notify the coroner and local law enforcement in the most expeditious manner possible, unless such person has good reason to believe that such notice has already been given. Any person knowing of the existence of skeletal human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice to the coroner and local law enforcement, is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination of whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such human remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected tribes via certified mail

to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of such nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of nonforensic remains. If the remains are determined to be Indian, the department must notify all affected tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are those tribes with usual and accustomed areas in the jurisdiction where the remains were found, or those tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

**NEW SECTION. Sec. 2.** A new section is added to chapter 27.44 RCW to read as follows:

(1) Any person who discovers skeletal human remains must notify the coroner and local law enforcement in the most expeditious manner possible. Any person knowing of the existence of human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice thereof is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is

established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of such nonforensic remains. If the remains are determined to be Indian, the department must notify all affected tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are those tribes with usual and accustomed areas in the jurisdiction where the remains were found, or those tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

**NEW SECTION. Sec. 3.** A new section is added to chapter 68.60 RCW to read as follows:

(1) Any person who discovers skeletal human remains shall notify the coroner and local law enforcement in the most expeditious manner possible. Any person knowing of the existence of skeletal human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice thereof is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such remains provided that there is sufficient evidence to make such a determination within that

time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of such nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of such nonforensic remains. If the remains are determined to be Indian, the department must notify all affected tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are those tribes with usual and accustomed areas in the jurisdiction where the remains were found, or those tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.334 RCW to read as follows:

(1) The director shall appoint a state physical anthropologist. At a minimum, the state physical anthropologist must have a doctorate in either archaeology or anthropology and have experience in forensic osteology or other relevant aspects of physical anthropology and must have at least one year of experience in laboratory reconstruction and analysis. A medical degree with archaeological experience in addition to the experience required may substitute for a doctorate in archaeology or anthropology.

(2) The state physical anthropologist has the primary responsibility of investigating, preserving, and, when necessary, removing and reintering discoveries of nonforensic skeletal human remains. The state physical anthropologist is available to any local governments or any tribal government within the boundaries of Washington to assist in determining whether discovered skeletal human remains are forensic or nonforensic.

(3) The director shall hire staff as necessary to support the state physical anthropologist to meet the objectives of this section.

(4) For the purposes of this section, "forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

**Sec. 5.** RCW 27.53.030 and 2005 c 333 s 20 are each amended to read as follows:

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

(1) "Archaeology" means systematic, scientific study of man's past through material remains.

(2) "Archaeological object" means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products.

(3) "Archaeological site" means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(4) "Department" means the department of archaeology and historic preservation, created in chapter 43.334 RCW.

(5) "Director" means the director of the department of archaeology and historic preservation, created in chapter 43.334 RCW.

(6) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(7) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(8) "Professional archaeologist" means a person (~~who has met the educational, training, and experience requirements of the society of professional archaeologists.~~

~~—(9) "Qualified archaeologist" means a person who has had formal training and/or experience in archaeology over a period of at least three years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists)) with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior's standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.~~

~~((+)) (9) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.~~

~~((+)) (10) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.~~

**NEW SECTION. Sec. 6.** A new section is added to chapter 27.34 RCW to read as follows:

The department of archaeology and historic preservation shall develop and maintain a centralized database and geographic

information systems spatial layer of all known cemeteries and known sites of burials of human remains in Washington state. The information in the database is subject to public disclosure, except as provided in RCW 42.56.300; exempt information is available by confidentiality agreement to federal, state, and local agencies for purposes of environmental review, and to tribes in order to participate in environmental review, protect their ancestors, and perpetuate their cultures.

Information provided to state and local agencies under this section is subject to public disclosure, except as provided in RCW 42.56.300.

NEW SECTION. Sec. 7. A new section is added to chapter 43.334 RCW to read as follows:

The skeletal human remains assistance account is created in the custody of the state treasurer. All appropriations provided by the legislature for this purpose as well as any reimbursement for services provided pursuant to this act must be deposited in the account. Expenditures from the account may be used only for archaeological determinations and excavations of inadvertently discovered skeletal human remains, and removal and reinterment of such remains when necessary. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 8. The department of archaeology and historic preservation must communicate with the appropriate committees of the legislature by November 15, 2009, and biennially thereafter, regarding the numbers of inadvertent discoveries of skeletal human remains and other associated activities pursuant to this act.

NEW SECTION. Sec. 9. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "remains;" strike the remainder of the title and insert "amending RCW 27.53.030; adding a new section to chapter 68.50 RCW; adding a new section to chapter 27.44 RCW; adding a new section to chapter 68.60 RCW; adding new sections to chapter 43.334 RCW; adding a new section to chapter 27.34 RCW; creating new sections; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate Amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2624 and asked the Senate to recede therefrom.

#### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2822 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 2.56 RCW to read as follows:

Subject to the availability of funds appropriated therefor, the family and juvenile court improvement grant program is created.

(1) The purpose of the program is to assist superior courts in improving their family and juvenile court systems, especially in dependency cases, with the goals of:

(a) Assuring a stable and well-trained judiciary in family and juvenile law providing consistency of judicial officers hearing all of the proceedings in a case involving one family, especially in dependency cases; and

(b) Ensuring judicial accountability in implementing specific principles and practices for family and juvenile court.

(2) The administrator for the courts shall develop and administer the program subject to requirements in section 2 of this act. As part of administering the program, the administrator for the courts shall define appropriate outcome measures, collect data, and gather information from courts receiving grants.

NEW SECTION. Sec. 2. A new section is added to chapter 2.56 RCW to read as follows:

(1) A superior court may apply for grants from the family and juvenile court improvement grant program by submitting a local improvement plan with the administrator for the courts. To be eligible for grant funds, a superior court's local improvement plan must meet the criteria developed by the administrator for the courts and approved by the board for judicial administration. The criteria must be consistent with the principles adopted for unified family courts. At a minimum, the criteria must require that the court's local improvement plan meet the following requirements:

(a) Commit to a chief judge assignment to the family and juvenile court for a minimum of two years;

(b) Implementation of the principle of one judicial team hearing all of the proceedings in a case involving one family, especially in dependency cases;

(c) Require court commissioners and judges assigned to family and juvenile court to receive a minimum of thirty hours specialized training in topics related to family and juvenile matters within six months of assuming duties in family and juvenile court. Where possible, courts should utilize local, statewide, and national training forums. A judicial officer's recorded educational history may be applied toward the thirty-hour requirement. The topics for training must include:

- (i) Parentage;
- (ii) Adoption;
- (iii) Domestic relations;
- (iv) Dependency and termination of parental rights;
- (v) Child development;
- (vi) The impact of child abuse and neglect;
- (vii) Domestic violence;
- (viii) Substance abuse;
- (ix) Mental health;
- (x) Juvenile status offenses;
- (xi) Juvenile offenders;
- (xii) Self-representation issues;
- (xiii) Cultural competency;

(xiv) Roles of family and juvenile court judges and commissioners; and

(d) As part of the application for grant funds, submit a spending proposal detailing how the superior court would use the grant funds.

(2) Courts receiving grant money must use the funds to improve and support family and juvenile court operations based on standards developed by the administrator for the courts and approved by the board for judicial administration. The standards may allow courts to use the funds to:

(a) Pay for family and juvenile court training of commissioners and judges or pay for pro tem commissioners and judges to assist the court while the commissioners and judges receive training;

(b) Increase judicial and nonjudicial staff, including administrative staff to improve case coordination and referrals in family and juvenile cases, guardian ad litem volunteers or court-appointed special advocates, security, and other staff;

(c) Improve the court facility to better meet the needs of children and families;

(d) Improve referral and treatment options for court participants, including enhancing court facilitator programs and family treatment court and increasing the availability of alternative dispute resolution;

(e) Enhance existing family and children support services funded by the courts and expand access to social service programs for families and children ordered by the court; and

(f) Improve or support family and juvenile court operations in any other way deemed appropriate by the administrator for the courts.

(3) The administrator for the courts shall allocate available grant moneys based upon the needs of the court as expressed in their local improvement plan.

(4) Money received by the superior court under this program must be used to supplement, not supplant, any other local, state, and federal funds for the court.

(5) Upon receipt of grant funds, the superior court shall submit to the administrator for the courts a spending plan detailing the use of funds. At the end of the fiscal year, the superior court shall submit to the administrator for the courts a financial report comparing the spending plan to actual expenditures. The administrator for the courts shall compile the financial reports and submit them to the appropriate committees of the legislature.

**NEW SECTION. Sec. 3.** A new section is added to chapter 2.56 RCW to read as follows:

After July 1, 2009, grant money received by a court under section 1 of this act shall be deemed to be state funding for the purpose of RCW 26.12.260 thereby obligating the court to operate a program to provide services to all parties involved in dissolution proceedings as required in RCW 26.12.260.

This obligation remains in effect only for the duration of the grant authorized by section 1 of this act.

**Sec. 4.** RCW 2.56.030 and 2007 c 496 s 302 are each amended to read as follows:

The administrator for the courts shall, under the supervision and direction of the chief justice:

(1) Examine the administrative methods and systems employed in the offices of the judges, clerks, stenographers, and employees of the courts and make recommendations, through the chief justice, for the improvement of the same;

(2) Examine the state of the dockets of the courts and determine the need for assistance by any court;

(3) Make recommendations to the chief justice relating to the assignment of judges where courts are in need of assistance and carry

out the direction of the chief justice as to the assignments of judges to counties and districts where the courts are in need of assistance;

(4) Collect and compile statistical and other data and make reports of the business transacted by the courts and transmit the same to the chief justice to the end that proper action may be taken in respect thereto;

(5) Prepare and submit budget estimates of state appropriations necessary for the maintenance and operation of the judicial system and make recommendations in respect thereto;

(6) Collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith;

(7) Obtain reports from clerks of courts in accordance with law or rules adopted by the supreme court of this state on cases and other judicial business in which action has been delayed beyond periods of time specified by law or rules of court and make report thereof to supreme court of this state;

(8) Act as secretary of the judicial conference referred to in RCW 2.56.060;

(9) Submit annually, as of February 1st, to the chief justice, a report of the activities of the administrator's office for the preceding calendar year including activities related to courthouse security;

(10) Administer programs and standards for the training and education of judicial personnel;

(11) Examine the need for new superior court and district court judge positions under an objective workload analysis. The results of the objective workload analysis shall be reviewed by the board for judicial administration which shall make recommendations to the legislature. It is the intent of the legislature that an objective workload analysis become the basis for creating additional district and superior court positions, and recommendations should address that objective;

(12) Provide staff to the judicial retirement account plan under chapter 2.14 RCW;

(13) Attend to such other matters as may be assigned by the supreme court of this state;

(14) Within available funds, develop a curriculum for a general understanding of child development, placement, and treatment resources, as well as specific legal skills and knowledge of relevant statutes including chapters 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills, and special needs of the abused or neglected child. This curriculum shall be completed and made available to all juvenile court judges, court personnel, and service providers and be updated yearly to reflect changes in statutes, court rules, or case law;

(15) Develop, in consultation with the entities set forth in RCW 2.56.150(3), a comprehensive statewide curriculum for persons who act as guardians ad litem under Title 13 or 26 RCW. The curriculum shall be made available July 1, 2008, and include specialty sections on child development, child sexual abuse, child physical abuse, child neglect, domestic violence, clinical and forensic investigative and interviewing techniques, family reconciliation and mediation services, and relevant statutory and legal requirements. The curriculum shall be made available to all superior court judges, court personnel, and all persons who act as guardians ad litem;

(16) Develop a curriculum for a general understanding of crimes of malicious harassment, as well as specific legal skills and knowledge of RCW 9A.36.080, relevant cases, court rules, and the special needs of malicious harassment victims. This curriculum shall be made available to all superior court and court of appeals judges and to all justices of the supreme court;

(17) Develop, in consultation with the criminal justice training commission and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be available to all superior court judges and court commissioners assigned to juvenile court, and other court personnel. Ethnic and cultural diversity training shall be provided annually so as to incorporate cultural sensitivity and awareness into the daily operation of juvenile courts statewide;

(18) Authorize the use of closed circuit television and other electronic equipment in judicial proceedings. The administrator shall promulgate necessary standards and procedures and shall provide technical assistance to courts as required;

(19) Develop a Washington family law handbook in accordance with RCW 2.56.180;

(20) Administer state funds for improving the operation of the courts and provide support for court coordinating councils, under the direction of the board for judicial administration;

(21) Administer the family and juvenile court improvement grant program;

(22)(a) Administer and distribute amounts appropriated from the equal justice subaccount under RCW 43.08.250(2) for district court judges' and qualifying elected municipal court judges' salary contributions. The administrator for the courts shall develop a distribution formula for these amounts that does not differentiate between district and elected municipal court judges.

(b) A city qualifies for state contribution of elected municipal court judges' salaries under (a) of this subsection if:

(i) The judge is serving in an elected position;

(ii) The city has established by ordinance that a full-time judge is compensated at a rate equivalent to at least ninety-five percent, but not more than one hundred percent, of a district court judge salary or for a part-time judge on a pro rata basis the same equivalent; and

(iii) The city has certified to the office of the administrator for the courts that the conditions in (b)(i) and (ii) of this subsection have been met.

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

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 2.56.030; adding new sections to chapter 2.56 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate Amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2822 and asked the Senate to recede therefrom.

#### MESSAGE FROM THE SENATE

March 10, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3139 with the following amendment:

"NEW SECTION. Sec. 1. A new section is added to chapter 51.52 RCW to read as follows:

(1) The department shall study appeals of workers' compensation cases and collect information concerning the impacts on employees and employers of a requirement that employers pay workers' compensation benefits pending an employer appeal. The study shall consider the types of benefits that may be paid pending an appeal, and shall include, but not be limited to:

(a) The issues, frequency, and outcomes of appeals;

(b) The duration of appeals;

(c) The number of cases that may be affected by the payment of benefits pending an appeal and the potential for overpayments; and  
(d) The processes used and efforts made to recoup overpayments and the results of those efforts.

(2) State fund and self-insured employers shall provide the information requested by the department to conduct the study.

(3) The department shall report to the workers' compensation advisory committee and the appropriate committees of the legislature by December 1, 2008, on the results of the study. By December 31, 2008, the workers' compensation advisory committee shall provide its recommendations for addressing payment of benefits pending employer appeals, any procedural or process changes that may be considered by the board to expedite the appeals process, the need for a permanent funding source to reimburse employer and state fund overpayment costs, and the method to fund such a source if needed."

On page 1, line 1 of the title, after "appeal;" strike the remainder of the title and insert "and creating a new section."

Representative Conway moved that the House not concur in the Senate amendment to Engrossed Second Substitute House Bill No. 3139 and ask the Senate for a conference thereon.

Representative Condotta moved that the House concur in the Senate amendment to Engrossed Second Substitute House Bill No. 3139.

Representative Condotta spoke in favor of the motion that the House concur in the Senate amendment.

Representative Conway spoke against the motion that the House concur in the Senate amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of the motion to concur in the Senate amendment to Engrossed Second Substitute House Bill No. 3139.

#### ROLL CALL

The Clerk called the roll on the adoption of the motion to concur in the Senate amendment to Engrossed Second

Substitute House Bill No. 3139, and the motion was not adopted by the following vote: Yeas - 33, Nays - 62, Absent - 0, Excused - 3.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Chandler, Condotta, Crouse, DeBolt, Dunn, Ericksen, Haler, Hankins, Herrera, Hinkle, Kelley, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Schmick, Smith, Sump, Walsh and Warnick - 33.

Voting nay: Representatives Appleton, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Liias, Linville, Loomis, McCoy, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Wood and Mr. Speaker - 62.

Excused: Representatives Hailey, Skinner and Williams - 3.

#### SENATE AMENDMENT TO HOUSE BILL

The House refused to concur in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3139 and asked the Senate for a conference thereon. The Speaker (Representative Morris presiding) appointed Representatives Conway, Green and Condotta as conferees.

#### MESSAGE FROM THE SENATE

March 6, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3145 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that the work done by the work group convened under chapter 413, Laws of 2007 was an initial step in developing a specialized foster home program. The legislature finds that the department should build upon this initial work and continue to work with stakeholders to put together specific recommendations on the qualifications and training specialized foster parents will need, the criteria by which eligible high/special needs foster children will be selected and the cost of implementing this program statewide. The legislature also finds that the department should consider whether it is more appropriate that this specialized group of providers be designated as something other than foster parents. The legislature intends that the department, in developing this plan, consider that the specialized foster home program is a potential collective bargaining unit.

**NEW SECTION. Sec. 2.** (1) The department shall develop a specific plan to create a specialized foster home program.

(2) In developing this plan, the department shall use the information gathered by the work group convened under chapter 413, Laws of 2007, and shall actively:

(a) Seek recommendations from foster parents and other out-of-home service providers across the state regarding the qualifications and requirements of specialized foster home providers, the needs of the children to be served, and the desired outcomes to be measured or monitored; and

(b) Consult with experts in child welfare, children's mental health, and children's health care to identify the evidence-based or promising practice models to be employed in the program and the appropriate supports to ensure program fidelity, including, but not limited to, the necessary training and clinical consultation and oversight to be provided to specialized foster homes.

(3) The plan developed by the department under this section shall include:

(a) The criteria by which specialized foster home providers shall be chosen. The criteria shall include at a minimum that the foster parent be licensed by the department as a foster parent, and shall meet additional requirements relating to relevant experience, education, training, and professional expertise necessary to meet the high/special needs of children identified as eligible for this program;

(b) The criteria by which children with high/special needs are deemed eligible for placement with a specialized foster home provider. Such criteria shall be based on the best interests of the child and shall include an assessment of the child's past and current level of functioning, including exposure to parental substance abuse, as well as a determination that the child's treatment plan and developmental needs are consistent with the placement plan;

(c) A policy for the placement of children with high/special needs in specialized foster homes, including a process for matching the child's needs with the foster parent's skills and expertise;

(d) A limit on the number and ages of children with high/special needs that may be placed in each specialized foster home;

(e) The identification of one or more approved models of skill building for use by specialized foster home providers;

(f) The specific training and consultation requirements that support the models of skill building;

(g) The development of a system of supports, including clinical consultation and oversight for specialized foster homes;

(h) The development of a level of stipend payments to specialized foster home providers that is not tied to deficits in the child's level of functioning;

(i) The development of clearly defined responsibilities of specialized foster home providers to include responsibilities to promote permanence and connections with birth parents; and

(j) The development of a process for annual performance reviews of specialized foster home providers.

(4) In creating the plan required under subsection (2) of this section, the department shall give consideration to the fact that this group of providers may create a potential future collective bargaining unit, if authorized in the future.

(5) The department shall include in the plan cost estimates for implementation of the specialized foster home program on a statewide basis.

(6) In developing the plan, the department is directed to consider and discuss with stakeholders whether the providers identified in the plan as meeting the requirements for dealing with high/special needs foster children should be referred to or classified as other than foster parents.

**NEW SECTION. Sec. 3.** The department shall submit its plan to the appropriate legislative committees no later than November 15, 2008. Until such time as the legislature approves a specialized foster home program, the department shall not take steps to implement such a program."

On page 1, line 2 of the title, after "licensing;" strike the remainder of the title and insert "and creating new sections."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

Representative Kagi moved that the House not concur in the Senate amendment to Engrossed Second Substitute House Bill No. 3145 and ask the Senate for a conference thereon.

Representative Haler moved that the House concur in the Senate amendment to Engrossed Second Substitute House Bill No. 3145.

Representative Haler spoke in favor of the motion to concur in the Senate amendment.

Representative Kagi spoke against the motion to concur in the Senate amendment.

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of the motion to concur in the Senate amendment to Engrossed Second Substitute House Bill No. 3145.

### MOTION

On motion of Representative Santos, Representative Eickmeyer was excused.

### ROLL CALL

The Clerk called the roll on the adoption of the motion to concur in the Senate amendment to Engrossed Second Substitute House Bill No. 3145, and the motion was not adopted by the following vote: Yeas - 30, Nays - 64, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Chandler, Condotta, DeBolt, Dunn, Ericksen, Haler, Hankins, Herrera, Hinkle, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Schmick, Smith, Sump and Warnick - 30.

Voting nay: Representatives Appleton, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Crouse, Darneille, Dickerson, Dunshee, Eddy, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Liias, Linville, Loomis, McCoy, McIntire, Miloscia,

Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Wood and Mr. Speaker - 64.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

### SENATE AMENDMENT TO HOUSE BILL

The House refused to concur in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3145 and asked the Senate to recede therefrom.

### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1141 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.50.050 and 2004 c 42 s 1 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (12) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys' records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.

(7) Upon the decision to arrest or the arrest, law enforcement and prosecuting attorneys may cooperate with schools in releasing information to a school pertaining to the investigation, diversion, and prosecution of a juvenile attending the school. Upon the decision to arrest or the arrest, incident reports may be released unless releasing the records would jeopardize the investigation or prosecution or endanger witnesses. If release of incident reports would jeopardize the investigation or prosecution or endanger witnesses, law

enforcement and prosecuting attorneys may release information to the maximum extent possible to assist schools in protecting other students, staff, and school property.

(8) The juvenile court and the prosecutor may set up and maintain a central record-keeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central record-keeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central record-keeping system without notification by the diversion unit of the date on which the offender agreed to diversion.

(9) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(10) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.

(11) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (23) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.

(12) The court shall not grant any motion to seal records made pursuant to subsection (11) of this section that is filed on or after July 1, 1997, unless it finds that:

(a) For class B offenses other than sex offenses, since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in conviction. For class C offenses other than sex offenses, since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent two consecutive years in the community without committing any offense or crime that subsequently results in conviction. For gross misdemeanors and misdemeanors, since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent two consecutive years in the community without committing any offense or crime that subsequently results in conviction. For diversions, since completion of the diversion agreement, the person has spent two consecutive years in the community without committing any offense or crime that subsequently results in conviction or diversion;

(b) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(c) No proceeding is pending seeking the formation of a diversion agreement with that person;

(d) The person has not been convicted of a class A or sex offense; and

(e) Full restitution has been paid.

(13) The person making a motion pursuant to subsection (11) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.

(14) If the court grants the motion to seal made pursuant to subsection (11) of this section, it shall, subject to subsection (23) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(15) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (23) of this section.

(16) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW. The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(17)(a) ~~((A person eighteen years of age or older whose criminal history consists of only one referral for diversion may request that the court order the records in that case destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that two years have elapsed since completion of the diversion agreement.))~~ (i) Subject to subsection (23) of this section, all records maintained by any court or law enforcement agency, including the juvenile court, local law enforcement, the Washington state patrol, and the prosecutor's office, shall be automatically destroyed within ninety days of becoming eligible for destruction. Juvenile records are eligible for destruction when:

(A) The person who is the subject of the information or complaint is at least eighteen years of age;

(B) His or her criminal history consists entirely of one diversion agreement or counsel and release entered on or after the effective date of this act;

(C) Two years have elapsed since completion of the agreement or counsel and release;

(D) No proceeding is pending against the person seeking the conviction of a criminal offense; and

(E) There is no restitution owing in the case.

(ii) No less than quarterly, the administrative office of the courts shall provide a report to the juvenile courts of those individuals whose records may be eligible for destruction. The juvenile court shall verify eligibility and notify the Washington state patrol and the appropriate local law enforcement agency and prosecutor's office of the records to be destroyed. The requirement to destroy records under this subsection is not dependent on a court hearing or the issuance of a court order to destroy records.

(iii) The state and local governments and their officers and employees are not liable for civil damages for the failure to destroy records pursuant to this section.

(b) A person eighteen years of age or older whose criminal history consists entirely of one diversion agreement or counsel and release entered prior to the effective date of this act, may request that the court order the records in his or her case destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that two years have elapsed since completion of the agreement or counsel and release.

(c) A person twenty-three years of age or older whose criminal history consists of only referrals for diversion may request that the court order the records in those cases destroyed. The request shall be granted, subject to subsection (23) of this section, if the court finds that all diversion agreements have been successfully completed and no proceeding is pending against the person seeking the conviction of a criminal offense.

(18) If the court grants the motion to destroy records made pursuant to subsection (17)(b) or (c) of this section, it shall, subject to subsection (23) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.

(19) The person making the motion pursuant to subsection (17)(b) or (c) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.

(20) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.

(21) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.

(22) Any juvenile justice or care agency may, subject to the limitations in subsection (23) of this section and (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.

(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older ~~(, or is eighteen years of age or older and his or her criminal history consists entirely of one diversion agreement and two years have passed since completion of the agreement)~~ or pursuant to subsection (17)(a) of this section.

(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.

(23) No identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.

(24) Information identifying child victims under age eighteen who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a

relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying a child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault."

On page 1, line 1 of the title, after "records;" strike the remainder of the title and insert "and amending RCW 13.50.050."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1141 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Roberts and Ahern spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1141, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1141, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

SUBSTITUTE HOUSE BILL NO. 1141, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

## MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2467 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 15.54.325 and 1999 c 383 s 1 and 1999 c 382 s 1 are each reenacted and amended to read as follows:

(1) No person may distribute in this state a commercial fertilizer until it has been registered with the department by the producer, importer, or packager of that product. ~~((A bulk fertilizer does not require registration if all commercial fertilizer products contained in the final product are registered.))~~

(2) An application for registration ~~((shall))~~ must be made on a form furnished by the department and ~~((shall))~~ must include the following:

- (a) The product name;
- (b) The brand and grade;
- (c) The guaranteed analysis;
- (d) Name, address, and phone number of the registrant;
- (e) ~~((Labels))~~ A label for each product being registered;
- (f) Identification of those products that are (i) waste-derived fertilizers, (ii) micronutrient fertilizers, or (iii) fertilizer materials containing phosphate;

(g) The concentration of each metal, for which standards are established under RCW 15.54.800, in each product being registered, unless the product is (i) anhydrous ammonia or a solution derived solely from dissolving anhydrous ammonia in water, (ii) a customer-formula fertilizer containing only registered commercial fertilizers, or (iii) a packaged commercial fertilizer whose plant nutrient content is present in the form of a single chemical compound which is registered in compliance with this chapter and the product is not blended with any other material. The provisions of (g)(i) of this subsection do not apply if the anhydrous ammonia is derived in whole or in part from waste such that the fertilizer is a "waste-derived fertilizer" as defined in RCW 15.54.270. Verification of a registration relied on by an applicant under (g)(iii) of this subsection must be submitted with the application;

(h) ~~If a waste-derived fertilizer((s and))~~ or micronutrient fertilizer~~((s shall include at a minimum))~~, information to ensure the product complies with chapter 70.105 RCW and the resource conservation and recovery act, 42 U.S.C. Sec. 6901 et seq.; and

(i) Any other information required by the department by rule.

(3) All companies planning to mix customer-formula fertilizers shall include the statement "customer-formula grade mixes" under the column headed "product name" on the product registration application form. All customer-formula fertilizers sold under one brand name shall be considered one product.

(4) ~~((All registrations issued by the department for registrants whose names begin with the letters A through M expire on June 30th of even-numbered years and all registrations issued by the department for registrants whose names begin with the letters N through Z expire on June 30th of odd-numbered years, unless otherwise specified in rule adopted by the director))~~ Registrations are issued by the department for a two-year period beginning on July 1st of a given year and ending twenty-four months later on July 1st, except that registrations issued to a registrant who applies to register an

additional product during the last twelve months of the registrant's period expire on the next July 1st.

(5) An application for registration ~~((shall))~~ must be accompanied by a fee of fifty dollars for each product~~((except that an applicant whose registration expires in even-numbered years shall pay a fee of twenty-five dollars for each product for the registration period ending June 30, 2000)).~~

(6) Application for renewal of registration is due July 1st of each registration period. If an application for renewal ~~((of the product registration provided for in this section is not filed prior to July 1st of the registration renewal year))~~ is not received by the department by the due date, a late fee of ten dollars per product ~~((shall be assessed and))~~ is added to the original fee and ~~((shall))~~ must be paid by the applicant before the renewal registration ~~((shall))~~ may be issued. ~~((The assessment of this late fee shall not prevent the department from taking any other action as provided for in this chapter. The))~~ A late fee ~~((shall))~~ does not apply if the applicant furnishes an affidavit that he or she has not distributed this commercial fertilizer subsequent to the expiration of ~~((his or her))~~ the prior registration. Payment of a late fee does not prevent the department from taking any action authorized by this chapter for the violation.

Sec. 2. RCW 15.54.340 and 2003 c 15 s 1 are each amended to read as follows:

(1) Any packaged commercial fertilizer distributed in this state ~~((shall))~~ that is not a customer-formula fertilizer must have placed on or affixed to the package a label ~~((setting forth))~~ stating in clearly legible and conspicuous form the following information:

- (a) The net weight;
- (b) The product name, brand, and grade. The grade is not required if no primary nutrients are claimed;
- (c) The guaranteed analysis;
- (d) The name and address of the registrant or licensee. The name and address of the manufacturer, if different from the registrant or licensee, may also be stated;

(e) Any information required under WAC ~~((296-62-054))~~ 296-307-560 through 296-307-56050;

(f) A statement, established by rule, referring persons to the department's Uniform Resource Locator (URL) internet address where data regarding the metals content of the product is located; and

(g) Other information as required by the department by rule.

(2) ~~((If a))~~ Any commercial fertilizer that is distributed in bulk((:)) in this state that is not a customer-formula fertilizer must be accompanied by a written or printed statement ((of)) that includes the information required by subsection (1) of this section ((shall accompany delivery)) and must be supplied to the purchaser at the time of delivery.

(3) Each delivery of a customer-formula fertilizer ~~((shall be subject to containing those ingredients specified by the purchaser, which ingredients shall be shown on the statement or invoice with the amount contained therein, and a record of all invoices of customer-formula grade mixes shall be kept by the registrant or licensee for a period of twelve months and shall be available to the department upon request. PROVIDED, That each such delivery shall))~~ in this state must be accompanied by either a statement, invoice, a delivery slip, or a label if bagged, containing the following information: The net weight; the brand; the name and amount of each ingredient; the guaranteed analysis which may be stated to the nearest tenth of a percent or to the next lower whole number; the name and address of the registrant or licensee, or manufacturer, or both; and the name and address of the purchaser.

(4) Each delivery of a customer-formula fertilizer must contain the ingredients specified by the purchaser. A record of the invoice or statement of each delivery must be kept by the registrant or licensee for twelve months and must be available to the department upon request.

**Sec. 3.** RCW 15.54.362 and 1993 c 183 s 7 are each amended to read as follows:

(1) Every registrant or licensee who distributes commercial fertilizer in this state ~~((shall))~~ must file a semiannual report on forms provided by the department ~~((setting forth))~~ stating the number of net tons of each commercial fertilizer ~~((so))~~ distributed in this state. ~~((The reports will cover the following periods: January 1 through June 30 and July 1 through December 31 of each year.))~~

(a) For the period January 1st through June 30th of each year, the report is due on July 31st of that year; and

(b) For the period July 1st through December 31st of each year, the report is due on January 31st of the following year.

Upon permission of the department, ~~((an annual statement under oath may be filed for the annual reporting period of July 1 through June 30 of any year by any))~~ a person distributing ~~((within))~~ in the state less than one hundred tons for each six-month period during any ~~((calendar year, and upon filing such statement, such person shall pay the inspection fee required under RCW 15.54.350))~~ annual reporting period of July 1st through June 30th may submit an annual report on a form provided by the department that is due on the July 31st following the period. The department may accept sales records or other records accurately reflecting the tonnage sold and verifying such reports.

(2) Each person responsible for the payment of inspection fees for commercial fertilizer distributed in this state ~~((shall))~~ must include the inspection fees with ~~((the report on the same dates and for the same reporting periods mentioned in subsection (1) of this section))~~ each semiannual or annual report. If in ~~((one year))~~ an annual reporting period a registrant or licensee distributes less than eighty-three tons of commercial fertilizer or less than one hundred sixty-seven tons of commercial lime or equivalent combination of the two, the registrant or licensee ~~((shall))~~ must pay the minimum inspection fee ~~((The minimum inspection fee shall be))~~ of twenty-five dollars ~~((per year)).~~

(3) The department may, upon request, require registrants or licensees to furnish information setting forth the net tons of commercial fertilizer distributed to each location in this state.

~~((4) ((Semiannual or annual reports filed after the close of the corresponding reporting period shall pay a late filing fee of twenty-five dollars. Inspection fees which are due and have not been remitted to the department by the due date shall have a late-collection fee of ten percent, but not less than twenty-five dollars, added to the amount due when payment is finally made. The assessment of this late-collection fee shall not prevent the department from taking any other action as provided for in this chapter.))~~

(a) If a complete report is not received by the due date, the person responsible for filing the report must pay a late fee of twenty-five dollars.

(b) If the appropriate inspection fees are not received by the due date, the person responsible for paying the inspection fee must pay a late fee equal to ten percent of the inspection fee owed or twenty-five dollars, whichever is greater.

(c) Payment of a late fee does not prevent the department from taking any other action authorized by this chapter for the violation.

(5) It ~~((shall be))~~ is a misdemeanor for any person to divulge any information provided under this section that would reveal the

business operation of the person making the report. However, nothing contained in this subsection may be construed to prevent or make unlawful the use of information concerning the business operations of a person in any action, suit, or proceeding instituted under the authority of this chapter, including any civil action for the collection of unpaid inspection fees, which action is ~~((hereby))~~ authorized and which shall be as an action at law in the name of the director of the department.

**Sec. 4.** RCW 15.54.433 and 1998 c 36 s 21 are each amended to read as follows:

(1) The department shall ~~((expand its))~~ maintain a fertilizer database ~~((to include additional))~~ that includes the information required for registration under RCW 15.54.325 and 15.54.330.

(2) Except for confidential information under RCW 15.54.362 regarding fertilizer tonnages distributed in the state, information in the fertilizer database ~~((shall))~~ must be made available to the public upon request.

(3) The department, and the department of ecology in consultation with the department of health, shall biennially prepare a report to the legislature presenting information on levels of nonnutritive substances in fertilizers ~~((Results from))~~ and the results of any agency testing of products ~~((that were sampled shall also be displayed)).~~ The first ~~((such))~~ report ~~((with))~~ must be provided to the legislature by December 1, 1999.

(4) ~~((After July 1, 1999,))~~ The department shall post on the internet the information contained in applications for fertilizer registration."

On page 1, line 2 of the title, after "fertilizers;" strike the remainder of the title and insert "amending RCW 15.54.340, 15.54.362, and 15.54.433; and reenacting and amending RCW 15.54.325."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2467 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Warnick and Blake spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of House Bill No. 2467, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2467, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

HOUSE BILL NO. 2467, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### STATEMENT FOR THE JOURNAL

I intended to vote NAY on House Bill No. 2467.

LARRY HALER, 8<sup>th</sup> District

#### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 2476 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "General authority Washington peace officer" means an officer authorized to enforce the criminal and traffic laws of the state of Washington generally.

(2) "Tribal police officer" means any person in the employ of one of the federally recognized sovereign tribal governments, whose traditional lands and territories lie within the borders of the state of Washington, to enforce the criminal laws of that government.

**NEW SECTION. Sec. 2.** (1) Tribal police officers under subsection (2) of this section shall be recognized and authorized to act as general authority Washington peace officers. A tribal police officer recognized and authorized to act as a general authority Washington peace officer under this section has the same powers as any other general authority Washington peace officer to enforce state laws in Washington, including the power to make arrests for violations of state laws.

(2) A tribal police officer may exercise the powers of law enforcement of a general authority Washington peace officer under this section, subject to the following:

(a) The appropriate sovereign tribal nation shall submit to the office of financial management proof of public liability and property damage insurance for vehicles operated by the peace officers and police professional liability insurance from a company licensed to sell insurance in the state. For purposes of determining adequacy of insurance liability, the sovereign tribal government must submit with the proof of liability insurance a copy of the interlocal agreement between the sovereign tribal government and the local governments that have shared jurisdiction under this chapter where such an agreement has been reached pursuant to subsection (10) of this section.

(i) Within the thirty days of receipt of the information from the sovereign tribal nation, the office of financial management shall either approve or reject the adequacy of insurance, giving consideration to the scope of the interlocal agreement. The adequacy of insurance under this chapter shall be subject to annual review by the state office of financial management.

(ii) Each policy of insurance issued under this chapter must include a provision that the insurance shall be available to satisfy settlements or judgments arising from the tortious conduct of tribal police officers when acting in the capacity of a general authority Washington peace officer, and that to the extent of policy coverage neither the sovereign tribal nation nor the insurance carrier will raise a defense of sovereign immunity to preclude an action for damages under state or federal law, the determination of fault in a civil action, or the payment of a settlement or judgment arising from the tortious conduct.

(b) The appropriate sovereign tribal nation shall submit to the office of financial management proof of training requirements for each tribal police officer. To be authorized as a general authority Washington peace officer, a tribal police officer must successfully complete the requirements set forth under RCW 43.101.157. Any applicant not meeting the requirements for certification as a tribal police officer may not act as a general authority Washington peace officer under this chapter. The criminal justice training commission shall notify the office of financial management if:

(i) A tribal police officer authorized under this chapter as a general authority Washington state peace officer has been decertified pursuant to RCW 43.101.157; or

(ii) An appropriate sovereign tribal government is otherwise in noncompliance with RCW 43.101.157.

(3) A copy of any citation or notice of infraction issued, or any incident report taken, by a tribal police officer acting in the capacity of a general authority Washington peace officer as authorized by this chapter must be submitted within three days to the police chief or sheriff within whose jurisdiction the action was taken. Any citation issued under this chapter shall be to a Washington court, except that any citation issued to Indians within the exterior boundaries of an Indian reservation may be cited to a tribal court. Any arrest made or citation issued not in compliance with this chapter is not enforceable.

(4) Any authorization granted under this chapter shall not in any way expand the jurisdiction of any tribal court or other tribal authority.

(5) The authority granted under this chapter shall be coextensive with the exterior boundaries of the reservation, except that an officer commissioned under this section may act as authorized under RCW 10.93.070 beyond the exterior boundaries of the reservation.

(6) For purposes of civil liability under this chapter, a tribal police officer shall not be considered an employee of the state of Washington or any local government except where a state or local government has deputized a tribal police officer as a specially commissioned officer. Neither the state of Washington and its

individual employees nor any local government and its individual employees shall be liable for the authorization of tribal police officers under this chapter, nor for the negligence or other misconduct of tribal officers. The authorization of tribal police officers under this chapter shall not be deemed to have been a nondelegable duty of the state of Washington or any local government.

(7) Nothing in this chapter impairs or affects the existing status and sovereignty of those sovereign tribal governments whose traditional lands and territories lie within the borders of the state of Washington as established under the laws of the United States.

(8) Nothing in this chapter limits, impairs, or nullifies the authority of a county sheriff to appoint duly commissioned state or federally certified tribal police officers as deputy sheriffs authorized to enforce the criminal and traffic laws of the state of Washington.

(9) Nothing in this act limits, impairs, or otherwise affects the existing authority under state or federal law of state or local law enforcement officers to enforce state law within the exterior boundaries of an Indian reservation or to enter Indian country in fresh pursuit, as defined in RCW 10.93.120, of a person suspected of violating state law, where the officer would otherwise not have jurisdiction.

(10) An interlocal agreement pursuant to chapter 39.34 RCW is required between the sovereign tribal government and all local government law enforcement agencies that will have shared jurisdiction under this chapter prior to authorization taking effect under this chapter. Nothing in this act shall limit, impair, or otherwise affect the implementation of an interlocal agreement completed pursuant to chapter 39.34 RCW by the effective date of this act, between a sovereign tribal government and a local government law enforcement agency for cooperative law enforcement.

(a) Sovereign tribal governments that meet all of the requirements of subsection (2) of this section, but do not have an interlocal agreement pursuant to chapter 39.34 RCW and seek authorization under this chapter, may submit proof of liability insurance and training certification to the office of financial management. Upon confirmation of receipt of the information from the office of financial management, the sovereign tribal government and the local government law enforcement agencies that will have shared jurisdiction under this chapter have one year to enter into an interlocal agreement pursuant to chapter 39.34 RCW. If the sovereign tribal government and the local government law enforcement agencies that will have shared jurisdiction under this chapter are not able to reach agreement after one year, the sovereign tribal governments and the local government law enforcement agencies shall submit to binding arbitration pursuant to chapter 7.04A RCW with the American arbitration association or successor agency for purposes of completing an agreement prior to authorization going into effect.

(b) For the purposes of (a) of this subsection, those sovereign tribal government and local government law enforcement agencies that must enter into binding arbitration shall submit to last best offer arbitration. For purposes of accepting a last best offer, the arbitrator must consider other interlocal agreements between sovereign tribal governments and local law enforcement agencies in Washington state, any model policy developed by the Washington association of sheriffs and police chiefs or successor agency, and national best practices.

**NEW SECTION. Sec. 3.** Sections 1 and 2 of this act constitute a new chapter in Title 10 RCW.

**NEW SECTION. Sec. 4.** This act takes effect July 1, 2008."

On page 1, line 2 of the title, after "officers;" strike the remainder of the title and insert "adding a new chapter to Title 10 RCW; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 2476 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative McCoy spoke in favor of the passage of the bill.

Representative Chandler spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 2476, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 2476, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 62, Nays - 32, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Appleton, Barlow, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunn, Dunshee, Eddy, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Liias, Linville, Loomis, McCoy, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Sullivan, Upthegrove, Van De Wege, Wallace, Wood and Mr. Speaker - 62.

Voting nay: Representatives Alexander, Anderson, Armstrong, Bailey, Blake, Chandler, Condotta, Crouse, DeBolt, Ericksen, Haler, Hankins, Herrera, Hinkle, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Schmick, Smith, Sump, Takko, Walsh and Warnick - 32.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

ENGROSSED HOUSE BILL NO. 2476, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

March 7, 2008

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2479 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "General authority Washington peace officer" means an officer authorized to enforce the criminal and traffic laws of the state of Washington generally.

(2) "Tribal police officer" means any person in the employ of one of the federally recognized sovereign tribal governments, whose traditional lands and territories lie within the borders of the state of Washington, to enforce the criminal laws of that government.

**NEW SECTION. Sec. 2.** (1) Tribal police officers under subsection (2) of this section shall be recognized and authorized to act as general authority Washington peace officers. A tribal police officer recognized and authorized to act as a general authority Washington peace officer under this section has the same powers as any other general authority Washington peace officer to enforce state laws in Washington, including the power to make arrests for violations of state laws.

(2) A tribal police officer may exercise the powers of law enforcement of a general authority Washington peace officer under this section, subject to the following:

(a) The appropriate sovereign tribal nation shall submit to the office of financial management proof of public liability and property damage insurance for vehicles operated by the peace officers and police professional liability insurance from a company licensed to sell insurance in the state. For purposes of determining adequacy of insurance liability, the sovereign tribal government must submit with the proof of liability insurance a copy of the interlocal agreement between the sovereign tribal government and the local governments that have shared jurisdiction under this chapter where such an agreement has been reached pursuant to subsection (10) of this section.

(i) Within the thirty days of receipt of the information from the sovereign tribal nation, the office of financial management shall either approve or reject the adequacy of insurance, giving consideration to the scope of the interlocal agreement. The adequacy of insurance under this chapter shall be subject to annual review by the state office of financial management.

(ii) Each policy of insurance issued under this chapter must include a provision that the insurance shall be available to satisfy settlements or judgments arising from the tortious conduct of tribal police officers when acting in the capacity of a general authority Washington peace officer, and that to the extent of policy coverage neither the sovereign tribal nation nor the insurance carrier will raise a defense of sovereign immunity to preclude an action for damages under state or federal law, the determination of fault in a civil action,

or the payment of a settlement or judgment arising from the tortious conduct.

(b) The appropriate sovereign tribal nation shall submit to the office of financial management proof of training requirements for each tribal police officer. To be authorized as a general authority Washington peace officer, a tribal police officer must successfully complete the requirements set forth under RCW 43.101.157. Any applicant not meeting the requirements for certification as a tribal police officer may not act as a general authority Washington peace officer under this chapter. The criminal justice training commission shall notify the office of financial management if:

(i) A tribal police officer authorized under this chapter as a general authority Washington state peace officer has been decertified pursuant to RCW 43.101.157; or

(ii) An appropriate sovereign tribal government is otherwise in noncompliance with RCW 43.101.157.

(3) A copy of any citation or notice of infraction issued, or any incident report taken, by a tribal police officer acting in the capacity of a general authority Washington peace officer as authorized by this chapter must be submitted within three days to the police chief or sheriff within whose jurisdiction the action was taken. Any citation issued under this chapter shall be to a Washington court, except that any citation issued to Indians within the exterior boundaries of an Indian reservation may be cited to a tribal court. Any arrest made or citation issued not in compliance with this chapter is not enforceable.

(4) Any authorization granted under this chapter shall not in any way expand the jurisdiction of any tribal court or other tribal authority.

(5) The authority granted under this chapter shall be coextensive with the exterior boundaries of the reservation, except that an officer commissioned under this section may act as authorized under RCW 10.93.070 beyond the exterior boundaries of the reservation.

(6) For purposes of civil liability under this chapter, a tribal police officer shall not be considered an employee of the state of Washington or any local government except where a state or local government has deputized a tribal police officer as a specially commissioned officer. Neither the state of Washington and its individual employees nor any local government and its individual employees shall be liable for the authorization of tribal police officers under this chapter, nor for the negligence or other misconduct of tribal officers. The authorization of tribal police officers under this chapter shall not be deemed to have been a nondelegable duty of the state of Washington or any local government.

(7) Nothing in this chapter impairs or affects the existing status and sovereignty of those sovereign tribal governments whose traditional lands and territories lie within the borders of the state of Washington as established under the laws of the United States.

(8) Nothing in this chapter limits, impairs, or nullifies the authority of a county sheriff to appoint duly commissioned state or federally certified tribal police officers as deputy sheriffs authorized to enforce the criminal and traffic laws of the state of Washington.

(9) Nothing in this act limits, impairs, or otherwise affects the existing authority under state or federal law of state or local law enforcement officers to enforce state law within the exterior boundaries of an Indian reservation or to enter Indian country in fresh pursuit, as defined in RCW 10.93.120, of a person suspected of violating state law, where the officer would otherwise not have jurisdiction.

(10) An interlocal agreement pursuant to chapter 39.34 RCW is required between the sovereign tribal government and all local government law enforcement agencies that will have shared jurisdiction under this chapter prior to authorization taking effect

under this chapter. Nothing in this act shall limit, impair, or otherwise affect the implementation of an interlocal agreement completed pursuant to chapter 39.34 RCW by the effective date of this act, between a sovereign tribal government and a local government law enforcement agency for cooperative law enforcement.

(a) Sovereign tribal governments that meet all of the requirements of subsection (2) of this section, but do not have an interlocal agreement pursuant to chapter 39.34 RCW and seek authorization under this chapter, may submit proof of liability insurance and training certification to the office of financial management. Upon confirmation of receipt of the information from the office of financial management, the sovereign tribal government and the local government law enforcement agencies that will have shared jurisdiction under this chapter have one year to enter into an interlocal agreement pursuant to chapter 39.34 RCW. If the sovereign tribal government and the local government law enforcement agencies that will have shared jurisdiction under this chapter are not able to reach agreement after one year, the sovereign tribal governments and the local government law enforcement agencies shall submit to binding arbitration pursuant to chapter 7.04A RCW with the American arbitration association or successor agency for purposes of completing an agreement prior to authorization going into effect.

(b) For the purposes of (a) of this subsection, those sovereign tribal government and local government law enforcement agencies that must enter into binding arbitration shall submit to last best offer arbitration. For purposes of accepting a last best offer, the arbitrator must consider other interlocal agreements between sovereign tribal governments and local law enforcement agencies in Washington state, any model policy developed by the Washington association of sheriffs and police chiefs or successor agency, and national best practices.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act constitute a new chapter in Title 10 RCW.

NEW SECTION. Sec. 4. This act takes effect July 1, 2008."

On page 1, line 2 of the title, after "officers;" strike the remainder of the title and insert "adding a new chapter to Title 10 RCW; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### **SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2479 and advanced the bill as amended by the Senate to final passage.

#### **FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED**

Representatives Morrell and Crouse spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2479, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2479, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Lias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

SECOND SUBSTITUTE HOUSE BILL NO. 2479, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### **MESSAGE FROM THE SENATE**

March 7, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 2480 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 35.58 RCW to read as follows:

(1) Persons traveling on public transportation operated by a metropolitan municipal corporation or a city-owned transit system shall pay the fare established by the metropolitan municipal corporation or the city-owned transit system. Such persons shall produce proof of payment when requested by a person designated to monitor fare payment.

(2) The following constitute civil infractions punishable according to the schedule of fines and penalties established by a metropolitan municipal corporation or a city-owned transit system under section 2 of this act:

(a) Failure to pay the required fare;

(b) Failure to display proof of payment when requested to do so by a person designated to monitor fare payment; and

(c) Failure to depart the bus or other mode of public transportation when requested to do so by a person designated to monitor fare payment.

**NEW SECTION. Sec. 2.** A new section is added to chapter 35.58 RCW to read as follows:

(1) Both a metropolitan municipal corporation and a city-owned transit system may establish, by resolution, a schedule of fines and penalties for civil infractions established in section 1 of this act. Fines established shall not exceed those imposed for class 1 infractions under RCW 7.80.120.

(2)(a) Both a metropolitan municipal corporation and a city-owned transit system may designate persons to monitor fare payment who are equivalent to, and are authorized to exercise all the powers of, an enforcement officer as defined in RCW 7.80.040. Both a metropolitan municipal corporation and a city-owned transit system may employ personnel to either monitor fare payment or contract for such services, or both.

(b) In addition to the specific powers granted to enforcement officers under RCW 7.80.050 and 7.80.060, persons designated to monitor fare payment may also take the following actions:

(i) Request proof of payment from passengers;

(ii) Request personal identification from a passenger who does not produce proof of payment when requested;

(iii) Issue a citation conforming to the requirements established in RCW 7.80.070; and

(iv) Request that a passenger leave the bus or other mode of public transportation when the passenger has not produced proof of payment after being asked to do so by a person designated to monitor fare payment.

(3) Both a metropolitan municipal corporation and a city-owned transit system shall keep records of citations in the manner prescribed by RCW 7.80.150. All civil infractions established by this section and sections 1 and 3 of this act shall be heard and determined by a district court as provided in RCW 7.80.010 (1) and (4).

**NEW SECTION. Sec. 3.** A new section is added to chapter 35.58 RCW to read as follows:

Sections 1 and 2 of this act do not prevent law enforcement authorities from prosecuting for theft, trespass, or other charges by any individual who:

(1) Fails to pay the required fare on more than one occasion within a twelve-month period;

(2) Fails to timely select one of the options for responding to the notice of civil infraction after receiving a statement of the options for responding to the notice of infraction and the procedures necessary to exercise these options; or

(3) Fails to depart the bus or other mode of public transportation when requested to do so by a person designated to monitor fare payment.

**NEW SECTION. Sec. 4.** A new section is added to chapter 35.58 RCW to read as follows:

The powers and authority conferred by sections 1 through 3 of this act shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained therein shall be construed as limiting any other powers or authority of any public agency.

**Sec. 5.** RCW 35.58.020 and 1982 c 103 s 1 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Metropolitan municipal corporation" means a municipal corporation of the state of Washington created pursuant to this chapter, or a county which has by ordinance or resolution assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation pursuant to the provisions of chapter 36.56 RCW.

(2) "Metropolitan area" means the area contained within the boundaries of a metropolitan municipal corporation, or within the boundaries of an area proposed to be organized as such a corporation.

(3) "City" means an incorporated city or town.

(4) "Component city" means an incorporated city or town within a metropolitan area.

(5) "Component county" means a county, all or part of which is included within a metropolitan area.

(6) "Central city" means the city with the largest population in a metropolitan area.

(7) "Central county" means the county containing the city with the largest population in a metropolitan area.

(8) "Special district" means any municipal corporation of the state of Washington other than a city, county, or metropolitan municipal corporation.

(9) "Metropolitan council" means the legislative body of a metropolitan municipal corporation, or the legislative body of a county which has by ordinance or resolution assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation pursuant to the provisions of chapter 36.56 RCW.

(10) "City council" means the legislative body of any city or town.

(11) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made under the direction of the office of financial management.

(12) "Metropolitan function" means any of the functions of government named in RCW 35.58.050.

(13) "Authorized metropolitan function" means a metropolitan function which a metropolitan municipal corporation shall have been authorized to perform in the manner provided in this chapter.

(14) "Metropolitan public transportation" or "metropolitan transportation" for the purposes of this chapter means the transportation of packages, passengers, and their incidental baggage by means other than by chartered bus, sightseeing bus, or any other motor vehicle not on an individual fare-paying basis, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people-moving systems: PROVIDED, That nothing in this chapter shall be construed to prohibit a metropolitan municipal corporation from leasing its buses to private certified carriers; to prohibit a metropolitan municipal corporation from providing school bus service for the transportation of pupils; or to prohibit a metropolitan municipal corporation from chartering an electric streetcar on rails which it operates entirely within a city.

(15) "Pollution" has the meaning given in RCW 90.48.020.

(16) "Proof of payment" means evidence of fare prepayment authorized by a metropolitan municipal corporation or a city-owned transit system for the use of buses or other modes of public transportation.

(17) "City-owned transit system" means a system of public transportation owned or operated, including contracts for the services of a publicly owned or operated system of transportation, by a city that is not located within the boundaries of a metropolitan municipal

corporation, county transportation authority, or public transportation benefit area.

**NEW SECTION. Sec. 6.** A new section is added to chapter 36.57A RCW to read as follows:

(1) Persons traveling on public transportation operated by a public transportation benefit area shall pay the fare established by the public transportation benefit area. Such persons shall produce proof of payment when requested by a person designated to monitor fare payment.

(2) The following constitute civil infractions punishable according to the schedule of fines and penalties established by a public transportation benefit area under section 7 of this act:

(a) Failure to pay the required fare;

(b) Failure to display proof of payment when requested to do so by a person designated to monitor fare payment; and

(c) Failure to depart the bus or other mode of public transportation when requested to do so by a person designated to monitor fare payment.

**NEW SECTION. Sec. 7.** A new section is added to chapter 36.57A RCW to read as follows:

(1) A public transportation benefit area may establish, by resolution, a schedule of fines and penalties for civil infractions established in section 6 of this act. Fines established shall not exceed those imposed for class 1 infractions under RCW 7.80.120.

(2)(a) A public transportation benefit area may designate persons to monitor fare payment who are equivalent to, and are authorized to exercise all the powers of, an enforcement officer as defined in RCW 7.80.040. A public transportation benefit area may employ personnel to either monitor fare payment or contract for such services, or both.

(b) In addition to the specific powers granted to enforcement officers under RCW 7.80.050 and 7.80.060, persons designated to monitor fare payment may also take the following actions:

(i) Request proof of payment from passengers;

(ii) Request personal identification from a passenger who does not produce proof of payment when requested;

(iii) Issue a citation conforming to the requirements established in RCW 7.80.070; and

(iv) Request that a passenger leave the bus or other mode of public transportation when the passenger has not produced proof of payment after being asked to do so by a person designated to monitor fare payment.

(3) A public transportation benefit area shall keep records of citations in the manner prescribed by RCW 7.80.150. All civil infractions established by this section and sections 6 and 8 of this act shall be heard and determined by a district court as provided in RCW 7.80.010 (1) and (4).

**NEW SECTION. Sec. 8.** A new section is added to chapter 36.57A RCW to read as follows:

Sections 6 and 7 of this act do not prevent law enforcement authorities from prosecuting for theft, trespass, or other charges by any individual who:

(1) Fails to pay the required fare on more than one occasion within a twelve-month period;

(2) Fails to timely select one of the options for responding to the notice of civil infraction after receiving a statement of the options for responding to the notice of infraction and the procedures necessary to exercise these options; or

(3) Fails to depart the bus or other mode of public transportation when requested to do so by a person designated to monitor fare payment.

**NEW SECTION. Sec. 9.** A new section is added to chapter 36.57A RCW to read as follows:

The powers and authority conferred by sections 6 through 8 of this act shall be construed as in addition and supplemental to powers or authority conferred by any other law, and nothing contained therein shall be construed as limiting any other powers or authority of any public agency.

**Sec. 10.** RCW 36.57A.010 and 2003 c 83 s 209 are each amended to read as follows:

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

(1) "Public transportation benefit area" means a municipal corporation of the state of Washington created pursuant to this chapter.

(2) "Public transportation benefit area authority" or "authority" means the legislative body of a public transportation benefit area.

(3) "City" means an incorporated city or town.

(4) "Component city" means an incorporated city or town within a public transportation benefit area.

(5) "City council" means the legislative body of any city or town.

(6) "County legislative authority" means the board of county commissioners or the county council.

(7) "Population" means the number of residents as shown by the figures released for the most recent official state, federal, or county census, or population determination made by the office of financial management.

(8) "Proof of payment" means evidence of fare prepayment authorized by a public transportation benefit area for the use of buses or other modes of public transportation.

(9) "Public transportation service" means the transportation of packages, passengers, and their incidental baggage by means other than by chartered bus, sight-seeing bus, together with the necessary passenger terminals and parking facilities or other properties necessary for passenger and vehicular access to and from such people moving systems: PROVIDED, That nothing shall prohibit an authority from leasing its buses to private certified carriers or prohibit the authority from providing school bus service. "Public transportation service" includes passenger-only ferry service for those public transportation benefit areas eligible to provide passenger-only ferry service under RCW 36.57A.200.

~~((9))~~ (10) "Public transportation improvement conference" or "conference" means the body established pursuant to RCW 36.57A.020 which shall be authorized to establish, subject to the provisions of RCW 36.57A.030, a public transportation benefit area pursuant to the provisions of this chapter.

**NEW SECTION. Sec. 11.** The code reviser shall alphabetize and renumber the definitions in RCW 35.58.020 and 36.57A.010."

On page 1, line 1 of the title, after "fares;" strike the remainder of the title and insert "amending RCW 35.58.020 and 36.57A.010; adding new sections to chapter 35.58 RCW; adding new sections to chapter 36.57A RCW; creating a new section; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2480 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL  
AS SENATE AMENDED**

Representatives Clibborn and Ericksen spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2480, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2480, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 86, Nays - 8, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Warnick, Wood and Mr. Speaker - 86.

Voting nay: Representatives Campbell, Crouse, Ericksen, Kretz, Schindler, Schmick, Sump and Walsh - 8.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2480, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

March 7, 2008

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2482 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.21.005 and 2003 c 331 s 8 are each amended to read as follows:

Wherever in this title petitions are required to be signed and filed, the following rules shall govern the sufficiency thereof:

(1) A petition may include any page or group of pages containing an identical text or prayer intended by the circulators, signers or sponsors to be presented and considered as one petition and containing the following essential elements when applicable, except that the elements referred to in (d) and (e) of this subsection are essential for petitions referring or initiating legislative matters to the voters, but are directory as to other petitions:

(a) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable state statute or city ordinance, if any;

(b) If the petition initiates or refers an ordinance, a true copy thereof;

(c) If the petition seeks the annexation, incorporation, withdrawal, or reduction of an area for any purpose, an accurate legal description of the area proposed for such action and if practical, a map of the area;

(d) Numbered lines for signatures with space provided beside each signature for the name and address of the signer and the date of signing;

(e) The warning statement prescribed in subsection (2) of this section.

(2) Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and the following warning:

**WARNING**

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing.

(3) The term "signer" means any person who signs his or her own name to the petition.

(4) To be sufficient a petition must contain valid signatures of qualified registered voters or property owners, as the case may be, in the number required by the applicable statute or ordinance. Within three working days after the filing of a petition, the officer with whom the petition is filed shall transmit the petition to the county auditor for petitions signed by registered voters, or to the county assessor for petitions signed by property owners for determination of sufficiency. The officer or officers whose duty it is to determine the sufficiency of the petition shall proceed to make such a determination with reasonable promptness and shall file with the officer receiving the petition for filing a certificate stating the date upon which such determination was begun, which date shall be referred to as the terminal date. Additional pages of one or more signatures may be

added to the petition by filing the same with the appropriate filing officer prior to such terminal date. Any signer of a filed petition may withdraw his or her signature by a written request for withdrawal filed with the receiving officer prior to such terminal date. Such written request shall so sufficiently describe the petition as to make identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the petition and, after the filing of such request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

(5) Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

(6) A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the same.

(7) Signatures, including the original, of any person who has signed a petition two or more times shall be stricken.

(8) Signatures followed by a date of signing which is more than six months prior to the date of filing of the petition shall be stricken.

(9) When petitions are required to be signed by the owners of property, the determination shall be made by the county assessor. Where validation of signatures to the petition is required, the following shall apply:

(a) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse;

(b) In the case of mortgaged property, the signature of the mortgagor shall be sufficient, without the signature of his or her spouse;

(c) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient, without the signature of his or her spouse;

(d) Any officer of a corporation owning land within the area involved who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign on behalf of such corporation, and shall attach to the petition a certified excerpt from the bylaws of such corporation showing such authority;

(e) When the petition seeks annexation, any officer of a corporation owning land within the area involved, who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign under oath on behalf of such corporation. If an officer signs the petition, he or she must attach an affidavit stating that he or she is duly authorized to sign the petition on behalf of such corporation;

(f) When property stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property; and

((f)) (g) When a parcel of property is owned by multiple owners, the signature of an owner designated by the multiple owners is sufficient.

(10) The officer or officers responsible for determining the sufficiency of the petition shall do so in writing and transmit the written certificate to the officer with whom the petition was originally filed.

**Sec. 2.** RCW 35A.01.040 and 2003 c 331 s 9 are each amended to read as follows:

Wherever in this title petitions are required to be signed and filed, the following rules shall govern the sufficiency thereof:

(1) A petition may include any page or group of pages containing an identical text or prayer intended by the circulators, signers or sponsors to be presented and considered as one petition and containing the following essential elements when applicable, except that the elements referred to in (d) and (e) of this subsection are essential for petitions referring or initiating legislative matters to the voters, but are directory as to other petitions:

(a) The text or prayer of the petition which shall be a concise statement of the action or relief sought by petitioners and shall include a reference to the applicable state statute or city ordinance, if any;

(b) If the petition initiates or refers an ordinance, a true copy thereof;

(c) If the petition seeks the annexation, incorporation, withdrawal, or reduction of an area for any purpose, an accurate legal description of the area proposed for such action and if practical, a map of the area;

(d) Numbered lines for signatures with space provided beside each signature for the name and address of the signer and the date of signing;

(e) The warning statement prescribed in subsection (2) of this section.

(2) Petitions shall be printed or typed on single sheets of white paper of good quality and each sheet of petition paper having a space thereon for signatures shall contain the text or prayer of the petition and the following warning:

#### WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Each signature shall be executed in ink or indelible pencil and shall be followed by the name and address of the signer and the date of signing.

(3) The term "signer" means any person who signs his or her own name to the petition.

(4) To be sufficient a petition must contain valid signatures of qualified registered voters or property owners, as the case may be, in the number required by the applicable statute or ordinance. Within three working days after the filing of a petition, the officer with whom the petition is filed shall transmit the petition to the county auditor for petitions signed by registered voters, or to the county assessor for petitions signed by property owners for determination of sufficiency. The officer or officers whose duty it is to determine the sufficiency of the petition shall proceed to make such a determination with reasonable promptness and shall file with the officer receiving the petition for filing a certificate stating the date upon which such determination was begun, which date shall be referred to as the terminal date. Additional pages of one or more signatures may be added to the petition by filing the same with the appropriate filing officer prior to such terminal date. Any signer of a filed petition may withdraw his or her signature by a written request for withdrawal filed with the receiving officer prior to such terminal date. Such written request shall so sufficiently describe the petition as to make

identification of the person and the petition certain. The name of any person seeking to withdraw shall be signed exactly the same as contained on the petition and, after the filing of such request for withdrawal, prior to the terminal date, the signature of any person seeking such withdrawal shall be deemed withdrawn.

(5) Petitions containing the required number of signatures shall be accepted as prima facie valid until their invalidity has been proved.

(6) A variation on petitions between the signatures on the petition and that on the voter's permanent registration caused by the substitution of initials instead of the first or middle names, or both, shall not invalidate the signature on the petition if the surname and handwriting are the same.

(7) Signatures, including the original, of any person who has signed a petition two or more times shall be stricken.

(8) Signatures followed by a date of signing which is more than six months prior to the date of filing of the petition shall be stricken.

(9) When petitions are required to be signed by the owners of property, the determination shall be made by the county assessor. Where validation of signatures to the petition is required, the following shall apply:

(a) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse;

(b) In the case of mortgaged property, the signature of the mortgagor shall be sufficient, without the signature of his or her spouse;

(c) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient, without the signature of his or her spouse;

(d) Any officer of a corporation owning land within the area involved who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign on behalf of such corporation, and shall attach to the petition a certified excerpt from the bylaws of such corporation showing such authority;

(e) When the petition seeks annexation, any officer of a corporation owning land within the area involved, who is duly authorized to execute deeds or encumbrances on behalf of the corporation, may sign under oath on behalf of such corporation. If an officer signs the petition, he or she must attach an affidavit stating that he or she is duly authorized to sign the petition on behalf of such corporation;

(f) When property stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator, or guardian, as the case may be, shall be equivalent to the signature of the owner of the property; and

((f)) (g) When a parcel of property is owned by multiple owners, the signature of an owner designated by the multiple owners is sufficient.

(10) The officer or officers responsible for determining the sufficiency of the petition shall do so in writing and transmit the written certificate to the officer with whom the petition was originally filed."

On page 1, line 2 of the title, after "annexation;" strike the remainder of the title and insert "and amending RCW 35.21.005 and 35A.01.040."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2482 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL  
AS SENATE AMENDED**

Representatives Moeller and Warnick spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2482, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 2482, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

SUBSTITUTE HOUSE BILL NO. 2482, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

March 7, 2008

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2551 with the following amendment:

*Format change to accommodate amendment/table*

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.40.0357 and 2007 c 199 s 11 are each amended to read as follows:

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
<b>Arson and Malicious Mischief</b>		
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 +
<b>Assault and Other Crimes Involving Physical Harm</b>		
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 +
<b>Burglary and Trespass</b>		
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
<b>Drugs</b>		
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
<b>Firearms and Weapons</b>		
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
<b>Homicide</b>		
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 +	Vehicle Homicide (46.61.520)	C +
<b>Kidnapping</b>		
A	Kidnap 1 (9A.40.020)	B +
B +	Kidnap 2 (9A.40.030)	C +
C +	Unlawful Imprisonment (9A.40.040)	D +
<b>Obstructing Governmental Operation</b>		
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 +
<b>Public Disturbance</b>		

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
<b>Sex Crimes</b>		
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 +
<b>Theft, Robbery, Extortion, and Forgery</b>		
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 a Stolen Vehicle (9A.56.068)	C
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
B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D
B	Theft of a Motor Vehicle (9A.56.065)	C
<b>Motor Vehicle Related Crimes</b>		
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
	<b>Other</b>	
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1 <sup>1</sup> (9A.76.110)	C
C	Escape 2 <sup>1</sup> (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) <sup>2</sup>	V

<sup>1</sup>Escape 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

<sup>2</sup>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	52-65	80-100	103-129
	WEEKS	WEEKS	WEEKS	WEEKS
	EXCEPT			
	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
D + LS		Local Sanctions: 0 to 30 Days 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 either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be

evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(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)."

On page 1, line 2 of the title, after "juveniles;" strike the remainder of the title and insert "and amending RCW 13.40.0357."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2551 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL  
AS SENATE AMENDED**

Representatives Dickerson and Hinkle spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2551, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 2551, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Lias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

SUBSTITUTE HOUSE BILL NO. 2551, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

March 7, 2008

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2635 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.315.195 and 2006 c 263 s 502 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 and providing documentation that, before signing the petition, the board of directors took the following actions:

(i) Communicated the proposed transfer to the board of directors of the affected district or districts and provided an opportunity for the board of the affected district or districts to respond; and

(ii) Communicated the proposed transfer to the registered voters residing in the territory proposed to be transferred, provided notice of a public hearing regarding the proposal, and provided the voters an opportunity to comment on the proposal at the public hearing.

(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 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. 2.** RCW 28A.315.205 and 2006 c 263 s 503 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 superintendent of public instruction under chapter 34.05 RCW.

(4) 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))~~ the impact of the growth management act and current or proposed urban growth areas, city boundaries, and master planned communities;

(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 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 administrative law judge finds that all applicable procedures were not followed or that the regional committee acted in an arbitrary and capricious manner, the administrative law judge shall

refer the matter back to the regional committee with an explanation of his or her findings. The regional committee shall rehear the proposal.

(iii) If the 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. 3.** RCW 28A.315.085 and 2006 c 263 s 507 are each amended to read as follows:

(1) The superintendent of public instruction shall furnish 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. ~~((Members shall be reimbursed for expenses necessarily incurred by them in the performance of their duties in accordance with RCW 28A.315.155.))~~

(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. 4.** RCW 28A.315.105 and 1985 c 385 s 2 are each amended to read as follows:

(1) There is hereby created in each educational service district a committee which shall be known as the regional committee on school district organization, which committee shall be composed of not less than seven nor more than nine registered voters of the educational service district, the number to correspond with the number of board member districts established for the governance of the educational service district in which the regional committee is located.

(2) Members of each regional committee shall be appointed to serve a four-year term by the educational service district board of the district in which the regional committee is located. One member of the regional committee shall be ~~((elected from the registered voters of))~~ appointed from each such educational service district board member district. Appointed members of regional committees must be registered voters and reside in the educational service district board member district from which they are appointed. Members of regional committees who were elected before the effective date of this section may serve the remainder of their four-year terms. Vacancies occurring for any reason, including at the end of the term of any member of a regional committee who was elected before the effective date of this section, shall be filled by appointment by the educational service district board of directors as provided in this section.

(3) 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 appointed for each affected educational service district at the expiration of the terms of the majority of the members of the regional committee. 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 appointed.

(4) No appointed member of a regional committee may continue to serve on the committee 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.

**NEW SECTION. Sec. 5.** The following acts or parts of acts are each repealed:

(14) RCW 28A.315.125 (Regional committees--Election of members--Qualifications) and 2006 c 263 s 508, 1993 c 416 s 2, 1990 c 33 s 295, 1985 c 385 s 4, & 1975-'76 2nd ex.s. c 15 s 1;

(15) RCW 28A.315.135 (Regional committees--Vacancies) and 1985 c 385 s 5, 1975 1st ex.s. c 275 s 81, 1969 ex.s. c 176 s 117, & 1969 ex.s. c 223 s 28A.57.033; and

(16) RCW 28A.315.145 (Regional committees--Terms of members) and 1993 c 416 s 3, 1990 c 33 s 296, 1985 c 385 s 6, & 1969 ex.s. c 223 s 28A.57.034.

**Sec. 6.** RCW 28A.323.020 and 2006 c 263 s 612 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))~~ more than one educational service district is involved shall be performed ~~((jointly))~~ by the regional committee~~((s))~~ and by the superintendent~~((s))~~ of the ~~((several))~~ educational service district~~((s 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))~~ in which is located the part of the proposed or enlarged school district having the largest number of common school pupils residing therein. 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 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)).~~

**NEW SECTION. Sec. 7.** RCW 28A.323.030 (School districts in two or more educational service districts--Proposed change or adjustment--Procedure when one committee does not approve or fails to act--Temporary committee) and 1990 c 33 s 310, 1985 c 385 s 26, 1975 1st ex.s. c 275 s 96, 1969 ex.s. c 176 s 132, & 1969 ex.s. c 223 s 28A.57.245 are each repealed.

**NEW SECTION. Sec. 8.** RCW 28A.323.020 is recodified as a new section in chapter 28A.315 RCW.

**Sec. 9.** RCW 28A.343.070 and 1990 c 33 s 324 are each amended to read as follows:

Each educational service district superintendent shall prepare and keep in his or her office ~~((+))~~ a map showing the boundaries of the directors' districts of all school districts in or belonging to his or her educational service district that are so divided~~((; and (2) a record~~

of the action taken by the regional committee in establishing such boundaries)).

**NEW SECTION. Sec. 10.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "organization;" strike the remainder of the title and insert "amending RCW 28A.315.195, 28A.315.205, 28A.315.085, 28A.315.105, 28A.323.020, and 28A.343.070; adding a new section to chapter 28A.315 RCW; creating a new section; recodifying RCW 28A.323.020; and repealing RCW 28A.315.125, 28A.315.135, 28A.315.145, and 28A.323.030."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2635 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Quall and Priest spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2635, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2635, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

SECOND SUBSTITUTE HOUSE BILL NO. 2635, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2647 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** Research shows that many toys and other children's products contain toxic chemicals, such as lead, cadmium, and phthalates that have been shown to cause harm to children's health and the environment. These chemicals have been linked to long-term health impacts, such as birth defects, reproductive harm, impaired learning, liver toxicity, and cancer. Because children's bodies are growing and developing, they are especially vulnerable to the effects of toxic chemicals. Regulation of toxic chemicals in children's toys and other products is woefully inadequate. To protect children's health, it is important to phase out the use of lead, cadmium, and phthalates in children's toys and other products and to begin collecting information on other chemicals that are present in toys and other products to determine whether further action is required.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Children's cosmetics" means cosmetics that are made for, marketed for use by, or marketed to children under the age of twelve. "Children's cosmetics" includes cosmetics that meet any of the following conditions:

(a) Represented in its packaging, display, or advertising as appropriate for use by children;

(b) Sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children; or

(c) Sold in any of the following:

(i) Retail store, catalogue, or online web site, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(ii) A discrete portion of a retail store, catalogue, or online web site, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(2) "Children's jewelry" means jewelry that is made for, marketed for use by, or marketed to children under the age of twelve. "Children's jewelry" includes jewelry that meets any of the following conditions:

(a) Represented in its packaging, display, or advertising as appropriate for use by children under the age of twelve;

(b) Sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children;

- (c) Sized for children and not intended for use by adults; or
- (d) Sold in any of the following:
  - (i) A vending machine;
  - (ii) Retail store, catalogue, or online web site, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or
  - (iii) A discrete portion of a retail store, catalogue, or online web site, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.
- (3)(a) "Children's product" includes any of the following:
  - (i) Toys;
  - (ii) Children's cosmetics;
  - (iii) Children's jewelry;
  - (iv) A product designed or intended by the manufacturer to help a child with sucking or teething, to facilitate sleep, relaxation, or the feeding of a child, or to be worn as clothing by children; or
  - (v) Child car seats.
- (b) "Children's product" does not include the following:
  - (i) Batteries;
  - (ii) Slings and catapults;
  - (iii) Sets of darts with metallic points;
  - (iv) Toy steam engines;
  - (v) Bicycles and tricycles;
  - (vi) Video toys that can be connected to a video screen and are operated at a nominal voltage exceeding twenty-four volts;
  - (vii) Chemistry sets;
  - (viii) Consumer electronic products, including but not limited to personal computers, audio and video equipment, calculators, wireless phones, game consoles, and handheld devices incorporating a video screen, used to access interactive software and their associated peripherals;
  - (ix) Interactive software, intended for leisure and entertainment, such as computer games, and their storage media, such as compact disks;
  - (x) BB guns, pellet guns, and air rifles;
  - (xi) Snow sporting equipment, including skis, poles, boots, snow boards, sleds, and bindings;
  - (xii) Sporting equipment, including, but not limited to bats, balls, gloves, sticks, pucks, and pads;
  - (xiii) Roller skates;
  - (xiv) Scooters;
  - (xv) Model rockets;
  - (xvi) Athletic shoes with cleats or spikes; and
  - (xvii) Pocket knives and multitools.
- (4) "Cosmetics" includes articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and articles intended for use as a component of such an article. "Cosmetics" does not include soap, dietary supplements, or food and drugs approved by the United States food and drug administration.
- (5) "Department" means the department of ecology.
- (6) "High priority chemical" means a chemical identified by a state agency, federal agency, or accredited research university, or other scientific evidence deemed authoritative by the department on the basis of credible scientific evidence as known to do one or more of the following:
  - (a) Harm the normal development of a fetus or child or cause other developmental toxicity;
  - (b) Cause cancer, genetic damage, or reproductive harm;
  - (c) Disrupt the endocrine system;

- (d) Damage the nervous system, immune system, or organs or cause other systemic toxicity;
- (e) Be persistent, bioaccumulative, and toxic; or
- (f) Be very persistent and very bioaccumulative.
- (7) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces a children's product or an importer or domestic distributor of a children's product. For the purposes of this subsection, "importer" means the owner of the children's product.
- (8) "Phthalates" means di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl phthalate (DnOP).
- (9) "Toy" means a product designed or intended by the manufacturer to be used by a child at play.
- (10) "Trade association" means a membership organization of persons engaging in a similar or related line of commerce, organized to promote and improve business conditions in that line of commerce and not to engage in a regular business of a kind ordinarily carried on for profit.
- (11) "Very bioaccumulative" means having a bioconcentration factor or bioaccumulation factor greater than or equal to five thousand, or if neither are available, having a log Kow greater than 5.0.
- (12) "Very persistent" means having a half-life greater than or equal to one of the following:
  - (a) A half-life in soil or sediment of greater than one hundred eighty days;
  - (b) A half-life greater than or equal to sixty days in water or evidence of long-range transport.

**NEW SECTION. Sec. 3.** (1) Beginning July 1, 2009, no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state a children's product or product component containing the following:

- (a) Except as provided in subsection (2) of this section, lead at more than .009 percent by weight (ninety parts per million);
- (b) Cadmium at more than .004 percent by weight (forty parts per million); or
- (c) Phthalates, individually or in combination, at more than 0.10 percent by weight (one thousand parts per million).

(2) If determined feasible for manufacturers to achieve and necessary to protect children's health, the department, in consultation with the department of health, may by rule require that no manufacturer, wholesaler, or retailer may manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use in this state a children's product or product component containing lead at more than .004 percent by weight (forty parts per million).

**NEW SECTION. Sec. 4.** (1) By January 1, 2009, the department, in consultation with the department of health, shall identify high priority chemicals that are of high concern for children after considering a child's or developing fetus's potential for exposure to each chemical. In identifying the chemicals, the department shall include chemicals that meet one or more of the following criteria:

- (a) The chemical has been found through biomonitoring studies that demonstrate the presence of the chemical in human umbilical cord blood, human breast milk, human urine, or other bodily tissues or fluids;
- (b) The chemical has been found through sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(c) The chemical has been added to or is present in a consumer product used or present in the home.

(2) By January 1, 2009, the department shall identify children's products or product categories that may contain chemicals identified under subsection (1) of this section.

(3) By January 1, 2009, the department shall submit a report on the chemicals of high concern to children and the children's products or product categories they identify to the appropriate standing committees of the legislature. The report shall include policy options for addressing children's products that contain chemicals of high concern for children, including recommendations for additional ways to inform consumers about toxic chemicals in products, such as labeling.

**NEW SECTION. Sec. 5.** Beginning six months after the department has adopted rules under section 8(5) of this act, a manufacturer of a children's product, or a trade organization on behalf of its member manufacturers, shall provide notice to the department that the manufacturer's product contains a high priority chemical. The notice must be filed annually with the department and must include the following information:

(1) The name of the chemical used or produced and its chemical abstracts service registry number;

(2) A brief description of the product or product component containing the substance;

(3) A description of the function of the chemical in the product;

(4) The amount of the chemical used in each unit of the product or product component. The amount may be reported in ranges, rather than the exact amount;

(5) The name and address of the manufacturer and the name, address, and phone number of a contact person for the manufacturer; and

(6) Any other information the manufacturer deems relevant to the appropriate use of the product.

**Sec. 6.** RCW 43.70.660 and 2001 c 257 s 2 are each amended to read as follows:

(1) The legislature authorizes the secretary to establish and maintain a product safety education campaign to promote greater awareness of products designed to be used by infants and children(~~excluding toys~~) that:

(a) Are recalled by the United States consumer products safety commission;

(b) Do not meet federal safety regulations and voluntary safety standards; (~~or~~)

(c) Are unsafe or illegal to place into the stream of commerce under the infant crib safety act, chapter 70.111 RCW; or

(d) Contain chemicals of high concern for children as identified under section 4 of this act.

(2) The department shall make reasonable efforts to ensure that this infant and children product safety education campaign reaches the target population. The target population for this campaign includes, but is not limited to, parents, foster parents and other caregivers, child care providers, consignment and resale stores selling infant and child products, and charitable and governmental entities serving infants, children, and families.

(3) The secretary may utilize a combination of methods to achieve this outreach and education goal, including but not limited to print and electronic media. The secretary may operate the campaign or may contract with a vendor.

(4) The department shall coordinate this infant and children product safety education campaign with child-serving entities

including, but not limited to, hospitals, birthing centers, midwives, pediatricians, obstetricians, family practice physicians, governmental and private entities serving infants, children, and families, and relevant manufacturers.

(5) The department shall coordinate with other agencies and entities to eliminate duplication of effort in disseminating infant and children consumer product safety information.

(6) The department may receive funding for this infant and children product safety education effort from federal, state, and local governmental entities, child-serving foundations, or other private sources.

**NEW SECTION. Sec. 7.** (1) A manufacturer of products that are restricted under this chapter must notify persons that sell the manufacturer's products in this state about the provisions of this chapter no less than ninety days prior to the effective date of the restrictions.

(2) A manufacturer that produces, sells, or distributes a product prohibited from manufacture, sale, or distribution in this state under this chapter shall recall the product and reimburse the retailer or any other purchaser for the product.

(3) A manufacturer of children's products in violation of this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the state toxics control account created in RCW 70.105D.070.

(4) Retailers who unknowingly sell products that are restricted from sale under this chapter are not liable under this chapter.

**NEW SECTION. Sec. 8.** (1) Before the prohibitions under section 3 of this act take effect, the department shall prepare and distribute information to in-state and out-of-state manufacturers, to the maximum extent practicable, to assist them in identifying products prohibited for manufacture, sale, or distribution under this chapter.

(2) The department must assist in-state retailers in identifying products restricted under this chapter.

(3) The department may require manufacturers to electronically file the notice required under section 5 of this act to the department that the manufacturer's product contains a high priority chemical.

(4) The department shall develop and publish a web site that provides consumers with information on the chemicals used in children's products, the reason the chemical has been identified as a high priority chemical, and any safer alternatives to the chemical.

(5) The department shall adopt rules to finalize the list of high priority chemicals that are of high concern for children identified in section 4(1) of this act by January 1, 2010.

**NEW SECTION. Sec. 9.** The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

**NEW SECTION. Sec. 10.** Sections 1 through 5 and 7 through 9 of this act constitute a new chapter in Title 70 RCW.

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

On page 1, line 1 of the title, after "act;" strike the remainder of the title and insert "amending RCW 43.70.660; adding a new chapter to Title 70 RCW; creating a new section; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2647 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Dickerson and Sump spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 2647, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2647, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 92, Nays - 2, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Warnick, Wood and Mr. Speaker - 92.

Voting nay: Representatives Grant and Walsh - 2.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2647, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2668 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that Washingtonians sixty-five years of age and older will nearly double in the next twenty years, from eleven percent of our population today to almost twenty percent of our population in 2025. Younger people with disabilities will also require supportive long-term care services. Nationally, young people with a disability account for thirty seven percent of the total number of people who need long-term care.

The legislature further finds that to address this increasing need, the long-term care system should support autonomy and self-determination, and support the role of informal caregivers and families. It should promote personal planning and savings combined with public support, when needed. It should also include culturally appropriate, high quality information, services, and supports delivered in a cost-effective and efficient manner.

The legislature further finds that more than fifteen percent of adults over age sixty-five in Washington state have diabetes. Current nurse delegation statutes limit the ability of elderly and disabled persons with diabetes to remain in their own homes or in other home-like long-term care settings. It is the intent of the legislature to modify nurse delegation statutes to enable elderly persons and persons with disabilities who have diabetes to continue to reside in their own home or other home-like settings.

The legislature further finds that the long-term care system should utilize evidence-based practices for the prevention and management of chronic disease to improve the general health of Washingtonians over their lifetime and reduce health care and long-term care costs related to ineffective chronic care management.

**Sec. 2.** RCW 74.41.040 and 1987 c 409 s 3 are each amended to read as follows:

The department shall administer this chapter and shall establish such rules and standards as the department deems necessary in carrying out this chapter. The department shall not require the development of plans of care or discharge plans by nursing homes or adult family homes providing respite care service under this chapter. Boarding homes providing respite care services shall comply with the assessment and plan of care provisions of RCW 18.20.350.

The department shall develop standards for the respite program in conjunction with the selected area agencies on aging. The program standards shall serve as the basis for soliciting bids, entering into subcontracts, and developing sliding fee scales to be used in determining the ability of eligible participants to participate in paying for respite care.

**Sec. 3.** RCW 18.20.350 and 2004 c 142 s 7 are each amended to read as follows:

(1) The boarding home licensee shall conduct a preadmission assessment for each resident applicant. The preadmission assessment shall include the following information, unless unavailable despite the best efforts of the licensee:

- (a) Medical history;
- (b) Necessary and contraindicated medications;

(c) A licensed medical or health professional's diagnosis, unless the individual objects for religious reasons;

(d) Significant known behaviors or symptoms that may cause concern or require special care;

(e) Mental illness diagnosis, except where protected by confidentiality laws;

(f) Level of personal care needs;

(g) Activities and service preferences; and

(h) Preferences regarding other issues important to the resident applicant, such as food and daily routine.

(2) The boarding home licensee shall complete the preadmission assessment before admission unless there is an emergency. If there is an emergency admission, the preadmission assessment shall be completed within five days of the date of admission. For purposes of this section, "emergency" includes, but is not limited to: Evening, weekend, or Friday afternoon admissions if the resident applicant would otherwise need to remain in an unsafe setting or be without adequate and safe housing.

(3) The boarding home licensee shall complete an initial resident service plan upon move-in to identify the resident's immediate needs and to provide direction to staff and caregivers relating to the resident's immediate needs. The initial resident service plan shall include as much information as can be obtained, under subsection (1) of this section.

(4) When a facility provides respite care, before or at the time of admission, the facility must obtain sufficient information to meet the individual's anticipated needs. At a minimum, such information must include:

(a) The name, address, and telephone number of the individual's attending physician, and alternate physician if any;

(b) Medical and social history, which may be obtained from a respite care assessment and service plan performed by a case manager designated by an area agency on aging under contract with the department, and mental and physical assessment data;

(c) Physician's orders for diet, medication, and routine care consistent with the individual's status on admission;

(d) Ensure the individuals have assessments performed, where needed, and where the assessment of the individual reveals symptoms of tuberculosis, follow required tuberculosis testing requirements; and

(e) With the participation of the individual and, where appropriate, their representative, develop a plan of care to maintain or improve their health and functional status during their stay in the facility.

**Sec. 4.** RCW 74.41.050 and 2000 c 207 s 4 are each amended to read as follows:

The department shall contract with area agencies on aging or other appropriate agencies to conduct family caregiver long-term care information and support services to the extent of available funding. The responsibilities of the agencies shall include but not be limited to: (1) Administering a program of family caregiver long-term care information and support services; ~~((and))~~ (2) negotiating rates of payment, administering sliding-fee scales to enable eligible participants to participate in paying for respite care, and arranging for respite care information, training, and other support services; and (3) developing an evidence-based tailored caregiver assessment and referral tool. In evaluating the need for respite services, consideration shall be given to the mental and physical ability of the caregiver to perform necessary caregiver functions.

**Sec. 5.** RCW 74.38.030 and 1975-'76 2nd ex.s. c 131 s 3 are each amended to read as follows:

(1) The program of community based services authorized under this chapter shall be administered by the department. Such services may be provided by the department or through purchase of service contracts, vendor payments or direct client grants.

The department shall, under stipend or grant programs provided under RCW 74.38.060, utilize, to the maximum staffing level possible, eligible persons in its administration, supervision, and operation.

(2) The department shall be responsible for planning, coordination, monitoring and evaluation of services provided under this chapter but shall avoid duplication of services.

(3) The department may designate area agencies in cities of not less than twenty thousand population or in regional areas within the state. These agencies shall submit area plans, as required by the department. For area plans prepared for submission in 2009, and thereafter, the area agencies may include the findings and recommendations of area-wide planning initiatives that they may undertake with appropriate local and regional partners regarding the changing age demographics of their area and the implications of this demographic change for public policies and public services. They shall also submit, in the manner prescribed by the department, such other program or fiscal data as may be required.

(4) The department shall develop an annual state plan pursuant to the Older Americans Act of 1965, as now or hereafter amended. This plan shall include, but not be limited to:

(a) Area agencies' programs and services approved by the department;

(b) Other programs and services authorized by the department; and

(c) Coordination of all programs and services.

(5) The department shall establish rules and regulations for the determination of low income eligible persons. Such determination shall be related to need based on the initial resources and subsequent income of the person entering into a program or service. This determination shall not prevent the eligible person from utilizing a program or service provided by the department or area agency. However, if the determination is that such eligible person is nonlow income, the provision of RCW 74.38.050 shall be applied as of the date of such determination.

**Sec. 6.** RCW 74.38.040 and 1983 c 290 s 14 are each amended to read as follows:

The community based services for low-income eligible persons provided by the department or the respective area agencies may include:

(1) Access services designed to provide identification of eligible persons, assessment of individual needs, reference to the appropriate service, and follow-up service where required. These services shall include information and referral, outreach, transportation and counseling. They shall also include long-term care planning and options counseling, information and crisis intervention, and streamlined assistance to access a wide array of public and private community-based services. Services would be available to individuals, concerned families or friends, or professionals working with issues related to aging, disabilities, and caregivers;

(2) Day care offered on a regular, recurrent basis. General nursing, rehabilitation, personal care, nutritional services, social casework, mental health as provided pursuant to chapter 71.24 RCW and/or limited transportation services may be made available within this program;

(3) In-home care for persons, including basic health care; performance of various household tasks and other necessary chores, or, a combination of these services;

(4) Counseling on death for the terminally ill and care and attendance at the time of death; except, that this is not to include reimbursement for the use of life-sustaining mechanisms;

(5) Health services which will identify health needs and which are designed to avoid institutionalization; assist in securing admission to medical institutions or other health related facilities when required; and, assist in obtaining health services from public or private agencies or providers of health services. These services shall include health screening and evaluation, in-home services, health education, and such health appliances which will further the independence and well-being of the person;

(6) The provision of low cost, nutritionally sound meals in central locations or in the person's home in the instance of incapacity. Also, supportive services may be provided in nutritional education, shopping assistance, diet counseling and other services to sustain the nutritional well-being of these persons;

(7) The provisions of services to maintain a person's home in a state of adequate repair, insofar as is possible, for their safety and comfort. These services shall be limited, but may include housing counseling, minor repair and maintenance, and moving assistance when such repair will not attain standards of health and safety, as determined by the department;

(8) Civil legal services, as limited by RCW 2.50.100, for counseling and representation in the areas of housing, consumer protection, public entitlements, property, and related fields of law;

(9) Long-term care ombudsman programs for residents of all long-term care facilities.

**NEW SECTION. Sec. 7.** A new section is added to chapter 43.70 RCW to read as follows:

Within funds appropriated for this purpose, the department shall develop a statewide fall prevention program. The program shall include networking community services, identifying service gaps, making affordable senior-based, evaluated exercise programs more available, providing consumer education to older adults, their adult children, and the community at large, and conducting professional education on fall risk identification and reduction.

**NEW SECTION. Sec. 8.** A new section is added to chapter 74.39A RCW to read as follows:

Within funds appropriated for this purpose, the department shall provide additional support for residents in community settings who exhibit challenging behaviors that put them at risk for institutional placement. The residents must be receiving services under the community options program entry system waiver or the medically needy residential facility waiver under section 1905(c) of the federal social security act and must have been evaluated under the individual comprehensive assessment reporting and evaluation process.

**NEW SECTION. Sec. 9.** A new section is added to chapter 74.39A RCW to read as follows:

Within funds appropriated for this specific purpose, the department shall develop a challenge grant program to assist communities and organizations in efforts to plan and establish additional adult day service programs throughout the state. The challenge grant program shall provide financial grants, not to exceed fifty thousand dollars for each grant, for the purpose of helping to meet the costs of planning, development, and start-up of new adult day service programs in underserved communities. Recipients of

these grants must provide matching resources, in funds or in-kind, of equal value to any grant received. Any adult day services program developed after receiving a challenge grant must agree to serve people whose care is paid for by the state on a first-come, first-served basis, regardless of the source of payment.

**NEW SECTION. Sec. 10.** A new section is added to chapter 74.34 RCW to read as follows:

(1) The department may conduct a vulnerable adult fatality review in the event of a death of a vulnerable adult when the department has reason to believe that the death of the vulnerable adult may be related to the abuse, abandonment, exploitation, or neglect of the vulnerable adult, or may be related to the vulnerable adult's self-neglect, and the vulnerable adult was:

(a) Receiving home and community-based services in his or her own home, described under chapters 74.39 and 74.39A RCW, within sixty days preceding his or her death; or

(b) Living in his or her own home and was the subject of a report under this chapter received by the department within twelve months preceding his or her death.

(2) When conducting a vulnerable adult fatality review of a person who had been receiving hospice care services before the person's death, the review shall provide particular consideration to the similarities between the signs and symptoms of abuse and those of many patients receiving hospice care services.

(3) All files, reports, records, communications, and working papers used or developed for purposes of a fatality review are confidential and not subject to disclosure pursuant to RCW 74.34.095.

(4) The department may adopt rules to implement this section.

**Sec. 11.** RCW 18.79.260 and 2003 c 140 s 2 are each amended to read as follows:

(1) A registered nurse under his or her license may perform for compensation nursing care, as that term is usually understood, to individuals with illnesses, injuries, or disabilities.

(2) A registered nurse may, at or under the general direction of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, naturopathic physician, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, or advanced registered nurse practitioner acting within the scope of his or her license, administer medications, treatments, tests, and inoculations, whether or not the severing or penetrating of tissues is involved and whether or not a degree of independent judgment and skill is required. Such direction must be for acts which are within the scope of registered nursing practice.

(3) A registered nurse may delegate tasks of nursing care to other individuals where the registered nurse determines that it is in the best interest of the patient.

(a) The delegating nurse shall:

(i) Determine the competency of the individual to perform the tasks;

(ii) Evaluate the appropriateness of the delegation;

(iii) Supervise the actions of the person performing the delegated task; and

(iv) Delegate only those tasks that are within the registered nurse's scope of practice.

(b) A registered nurse, working for a home health or hospice agency regulated under chapter 70.127 RCW, may delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care.

(c) Except as authorized in (b) or (e) of this subsection, a registered nurse may not delegate the administration of medications. Except as authorized in (e) of this subsection, a registered nurse may not delegate acts requiring substantial skill, and may not delegate piercing or severing of tissues. Acts that require nursing judgment shall not be delegated.

(d) No person may coerce a nurse into compromising patient safety by requiring the nurse to delegate if the nurse determines that it is inappropriate to do so. Nurses shall not be subject to any employer reprisal or disciplinary action by the nursing care quality assurance commission for refusing to delegate tasks or refusing to provide the required training for delegation if the nurse determines delegation may compromise patient safety.

(e) For delegation in community-based care settings or in-home care settings, a registered nurse may delegate nursing care tasks only to registered or certified nursing assistants. Simple care tasks such as blood pressure monitoring, personal care service, diabetic insulin device set up, verbal verification of insulin dosage for sight-impaired individuals, or other tasks as defined by the nursing care quality assurance commission are exempted from this requirement.

(i) "Community-based care settings" includes: Community residential programs for ~~((the developmentally disabled))~~ people with developmental disabilities, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and boarding homes licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

(ii) "In-home care settings" include an individual's place of temporary or permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings as defined in (e)(i) of this subsection.

(iii) Delegation of nursing care tasks in community-based care settings and in-home care settings is only allowed for individuals who have a stable and predictable condition. "Stable and predictable condition" means a situation in which the individual's clinical and behavioral status is known and does not require the frequent presence and evaluation of a registered nurse.

(iv) The determination of the appropriateness of delegation of a nursing task is at the discretion of the registered nurse. ~~((However))~~ Other than delegation of the administration of insulin by injection for the purpose of caring for individuals with diabetes, the administration of medications by injection, sterile procedures, and central line maintenance may never be delegated.

(v) When delegating insulin injections under this section, the registered nurse delegator must instruct the individual regarding proper injection procedures and the use of insulin, demonstrate proper injection procedures, and must supervise and evaluate the individual performing the delegated task weekly during the first four weeks of delegation of insulin injections. If the registered nurse delegator determines that the individual is competent to perform the injection properly and safely, supervision and evaluation shall occur at least every ninety days thereafter.

~~((vi))~~ (vi) The registered nurse shall verify that the nursing assistant has completed the required core nurse delegation training required in chapter 18.88A RCW prior to authorizing delegation.

~~((vii))~~ (vii) The nurse is accountable for his or her own individual actions in the delegation process. Nurses acting within the protocols of their delegation authority are immune from liability for any action performed in the course of their delegation duties.

~~((viii))~~ (viii) Nursing task delegation protocols are not intended to regulate the settings in which delegation may occur, but are intended to ensure that nursing care services have a consistent

standard of practice upon which the public and the profession may rely, and to safeguard the authority of the nurse to make independent professional decisions regarding the delegation of a task.

(f) The nursing care quality assurance commission may adopt rules to implement this section.

(4) Only a person licensed as a registered nurse may instruct nurses in technical subjects pertaining to nursing.

(5) Only a person licensed as a registered nurse may hold herself or himself out to the public or designate herself or himself as a registered nurse.

**Sec. 12.** RCW 18.88A.210 and 2003 c 140 s 5 are each amended to read as follows:

(1) A nursing assistant meeting the requirements of this section who provides care to individuals in community-based care settings or in-home care settings, as defined in RCW 18.79.260(3), may accept delegation of nursing care tasks by a registered nurse as provided in RCW 18.79.260(3).

(2) For the purposes of this section, "nursing assistant" means a nursing assistant-registered or a nursing assistant-certified. Nothing in this section may be construed to affect the authority of nurses to delegate nursing tasks to other persons, including licensed practical nurses, as authorized by law.

(3)~~(a)~~ Before commencing any specific nursing care tasks authorized under this chapter, the nursing assistant must ~~((a))~~ (i) provide to the delegating nurse a certificate of completion issued by the department of social and health services indicating the completion of basic core nurse delegation training, ~~((b))~~ (ii) be regulated by the department of health pursuant to this chapter, subject to the uniform disciplinary act under chapter 18.130 RCW, and ~~((c))~~ (iii) meet any additional training requirements identified by the nursing care quality assurance commission. Exceptions to these training requirements must adhere to RCW 18.79.260(3)(e)~~((a))~~ (vi).

(b) In addition to meeting the requirements of (a) of this subsection, before commencing the care of individuals with diabetes that involves administration of insulin by injection, the nursing assistant must provide to the delegating nurse a certificate of completion issued by the department of social and health services indicating completion of specialized diabetes nurse delegation training. The training must include, but is not limited to, instruction regarding diabetes, insulin, sliding scale insulin orders, and proper injection procedures.

**NEW SECTION. Sec. 13.** A new section is added to chapter 74.09 RCW to read as follows:

Within funds appropriated for this purpose, the department shall establish two dental access projects to serve seniors and other adults who are categorically needy blind or disabled. The projects shall provide:

(1) Enhanced reimbursement rates for certified dentists for specific procedures, to begin no sooner than July 1, 2009;

(2) Reimbursement for trained medical providers for preventive oral health services, to begin no sooner than July 1, 2009;

(3) Training, development, and implementation through a partnership with the University of Washington school of dentistry;

(4) Local program coordination including outreach and case management; and

(5) An evaluation that measures the change in utilization rates and cost savings.

**NEW SECTION. Sec. 14.** 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. 15.** If specific funding for the purposes of sections 4, 6, 7, 8, and 9 of this act, referencing the section by section number and by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, each section not referenced is null and void."

On page 1, line 1 of the title, after "care;" strike the remainder of the title and insert "amending RCW 74.41.040, 18.20.350, 74.41.050, 74.38.030, 74.38.040, 18.79.260, and 18.88A.210; adding a new section to chapter 43.70 RCW; adding new sections to chapter 74.39A RCW; adding a new section to chapter 74.34 RCW; adding a new section to chapter 74.09 RCW; and creating new sections."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2668 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Morrell and Hinkle spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 2668, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2668, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer,

Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2668, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2679 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 28A.310 RCW to read as follows:

Subject to the availability of funds appropriated for this purpose, the Puget Sound educational service district shall designate a foster care program supervisor to coordinate programs and services for students in foster care. The foster care program supervisor shall:

(1) Facilitate the use of education system resources to improve educational stability and other measurable outcomes for children in children's administration out-of-home care and enrolled in a school district within the Puget Sound educational service district;

(2) Develop and distribute model school district policies to improve services and supports to children in children's administration out-of-home care and enrolled in a school district within the Puget Sound educational service district;

(3) Provide training to public school staff on the impact of child abuse and neglect, school preparedness, and the child welfare system upon children who live in children's administration out-of-home care, the likely need for students in children's administration out-of-home care to have a strong relationship with one or more adults at school and academic and behavioral remediation, and the need to determine eligibility of students in children's administration out-of-home care for the many programs for which they qualify that are provided in schools;

(4) Provide technical assistance to schools concerning interagency agreements and children's administration policies relative to the education of children who live in children's administration out-of-home care;

(5) Coordinate with the McKinney-Vento education of homeless children and youth program supervisor within the office of the superintendent of public instruction on issues that relate to the definition of children's administration out-of-home care and homelessness;

(6) Coordinate with the office of the superintendent of public instruction the legal interpretations of the family education rights and privacy act and the health insurance portability and accountability act relative to data exchange;

(7) Provide technical assistance to school districts within the Puget Sound educational service district to facilitate local data exchange;

(8) Coordinate with regions 4 and 5 children's administration education leads to facilitate completion of interagency agreements for

top priority school districts within the Puget Sound educational service district; and

(9) Establish a model information and data-sharing agreement between school districts and the children's administration and facilitate completion of information and data-sharing agreements.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28A.300 RCW to read as follows:

The superintendent of public instruction shall provide an annual aggregate report to the legislature on the educational experiences and progress of students in children's administration out-of-home care. This data should be disaggregated in the smallest units allowable by law that do not identify an individual student, in order to learn which school districts are experiencing the greatest success and challenges in achieving quality educational outcomes with students in children's administration out-of-home care.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28A.310 RCW to read as follows:

(1) Subject to the availability of funds appropriated for this purpose, the Puget Sound educational service district shall create a grant program for local school districts to improve stability and educational outcomes for students in foster care. Grants shall be awarded to school districts with the highest incidence of child protective services removals and foster care placements under chapter 13.34 RCW.

(2) School districts receiving grants under this section shall agree to the following:

(a) The grant shall not supplant funding already in place for all students.

(b) The grant shall be used to supplement and enhance educational stability and educational outcomes for students in foster care.

(3) Grant activities may include but are not limited to the following:

(a) Dedicated staff time for:

(i) Additional counselor support for students in foster care and foster parent support;

(ii) Facilitation of education planning meetings with children's administration caseworkers, students, foster and relative caregivers, other community providers, and birth parents when appropriate;

(iii) Coordination with programs for which students in foster care may be eligible including: Title I, Upward Bound, free and reduced meals, etc.;

(iv) Tutoring;

(v) Temporary arrangements for transportation to enhance educational stability;

(vi) Coordination with the McKinney-Vento education of homeless children and youth program activities within the office of the superintendent of public instruction and local school district Title X liaisons;

(vii) Activities promoting engagement of foster parents in school programming activities;

(viii) Outreach to birth parents, when appropriate;

(ix) Assurance of timely and accurate record and data transfer when a student in foster care moves to a different school;

(x) Support for school-based foster parent recruitment; and

(xi) Additional school staff training concerning the characteristics and needs of students in foster care including protecting the right to privacy for students in foster care;

(b) Fees normally covered by parents for extracurricular activity participation, school pictures, yearbooks, ASB cards, school fines, etc.

(4) The Puget Sound educational service district shall annually submit a report to the legislature on grant program outcomes under this section.

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

(1) Subject to availability of funds appropriated specifically for this purpose, the department of social and health services, within the children's administration, shall fund two school district-based foster care recruitment pilots in one or more of the school districts with the highest number of child protective services removals and out-of-home placements under chapter 13.34 RCW. Pilots must coordinate with existing foster care recruitment contracts and the family-to-family model. Funds can be used to expand existing contracts or fund children's administration staff.

(2) The department of social and health services shall annually report to the legislature on the increase or decrease of foster homes within the pilot areas.

**Sec. 5.** RCW 28A.150.510 and 2000 c 88 s 1 are each amended to read as follows:

In order to effectively serve students who are ~~((under the jurisdiction of the juvenile justice system as))~~ dependent pursuant to chapter 13.34 RCW, education records shall be ~~((released upon))~~ transmitted to the department of social and health services within two school days after receiving the request ~~((to))~~ from the department ~~((of social and health services))~~ provided that the department ~~((of social and health services))~~ certifies that it will not disclose to any other party the education records without prior written consent of the parent or student unless authorized to disclose the records under state law. The department of social and health services is authorized to disclose education records it obtains pursuant to this section to a foster parent, guardian, or other entity authorized by the department ~~((of social and health services))~~ to provide residential care to the student.

**NEW SECTION. Sec. 6.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "care;" strike the remainder of the title and insert "amending RCW 28A.150.510; adding new sections to chapter 28A.310 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 74.13 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2679 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL

**AS SENATE AMENDED**

Representatives Roberts and Priest spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2679, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 2679, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Erickson, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

SUBSTITUTE HOUSE BILL NO. 2679, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

March 7, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2712 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"PART I  
NEAR-TERM RELIEF FOR 2008**

**Washington Association Of Sheriffs And Police  
Chiefs Grant Program To Communities**

NEW SECTION. Sec. 101. A new section is added to chapter 36.28A RCW to read as follows:

(1) When funded, the Washington association of sheriffs and police chiefs shall establish a grant program to assist local law enforcement agencies in the support of special enforcement emphasis targeting gang crime. Grant applications shall be reviewed and awarded through peer review panels. Grant applicants are encouraged to utilize multijurisdictional efforts.

(2) Each grant applicant shall:

(a) Show a significant gang problem in the jurisdiction or jurisdictions receiving the grant;

(b) Verify that grant awards are sufficient to cover increased investigation, prosecution, and jail costs;

(c) Design an enforcement program that best suits the specific gang problem in the jurisdiction or jurisdictions receiving the grant;

(d) Demonstrate community coordination focusing on prevention, intervention, and suppression; and

(e) Collect data on performance pursuant to section 103 of this act.

(3) The cost of administering the grants shall not exceed sixty thousand dollars, or four percent of appropriated funding, whichever is greater.

**Graffiti/Tagging Abatement Grant**

NEW SECTION. Sec. 102. A new section is added to chapter 36.28A RCW to read as follows:

(1) When funded, the Washington association of sheriffs and police chiefs shall establish a grant program to assist local law enforcement agencies in the support of graffiti and tagging abatement programs located in local communities. Grant applicants are encouraged to utilize multijurisdictional efforts.

(2) Each graffiti or tagging abatement grant applicant shall:

(a) Demonstrate that a significant gang problem exists in the jurisdiction or jurisdictions receiving the grant;

(b) Show how the funds will be used to dispose or eliminate any current or ongoing tagging or graffiti within a specified time period;

(c) Specify how the funds will be used to reduce gang-related graffiti or tagging within its community;

(d) Show how the local citizens and business owners of the community will benefit from the proposed graffiti or tagging abatement process being presented in the grant application; and

(e) Collect data on performance pursuant to section 103 of this act.

(3) The cost of administering the grants shall not exceed twenty-five thousand dollars, or four percent of funding, whichever is greater.

NEW SECTION. Sec. 103. A new section is added to chapter 36.28A RCW to read as follows:

For the grant programs created in sections 101 and 102 of this act and within the funds provided for these programs, the Washington association of sheriffs and police chiefs shall, upon consultation with the Washington state institute for public policy, identify performance measures, periodic reporting requirements, data needs, and a framework for evaluating the effectiveness of grant programs in graffiti and tagging abatement and reducing gang crime.

**PART II  
STATEWIDE GANG INFORMATION DATABASE**

NEW SECTION. Sec. 201. A new section is added to chapter 43.43 RCW to read as follows:

The Washington association of sheriffs and police chiefs shall work with the Washington state patrol to coordinate, designate, and recommend the use of a statewide database accessible by law enforcement agencies that utilizes existing resources, networks, or structures for assessing and addressing the problems associated with criminal street gangs.

(1) The gang database shall comply with federal regulations for state law enforcement databases shared with other law enforcement agencies, including auditing and access to data.

(2) The Washington state patrol, in consultation with the Washington state association of sheriffs and police chiefs, shall adopt uniform state criteria for entering gangs, gang members, and gang associates into the database. Data on individuals may be entered only based on reasonable suspicion of criminal activity or actual criminal activity and must be supported by documentation, where documentation is available.

(3) Information in the database shall be available to all local, state, and federal general authority law enforcement agencies, the Washington department of corrections, and the juvenile rehabilitation administration of the Washington department of social and health services solely for gang enforcement and for tracking gangs, gang members, and gang incidents. Information in the database shall not be available for public use.

(4) The database shall provide an internet-based multiagency, multilocation, information-sharing application that operates in a network fashion.

(5) The database shall be used solely as a law enforcement intelligence tool and shall not be used as evidence in any criminal, civil, or administrative proceeding. Law enforcement may use the information within the database to obtain information external to the database to formulate the probable cause necessary to make a stop or arrest. The mere existence of information relating to an individual within the database does not by itself justify a stop or arrest.

(6) Access to the database shall be determined by the chief executive officer of each participating agency. Information about specific individuals in the database shall be automatically expunged if: (a) No new or updated information has been entered into the database within the previous five years; (b) there are no pending criminal charges against such person in any court in this state or another state or in any federal court; (c) the person has not been convicted of a new crime in this state, another state, or federal court within the last five years; and (d) it has been five years since the person completed his or her term of total confinement.

(7) Each law enforcement and criminal justice agency using the database is required to:

(a) Identify a system administrator that is responsible for annually auditing the use of the system within his or her respective agency to ensure agency compliance with policies established for the use of the database;

(b) Ensure that all users of the database receive training on the use of the database before granting the users access to the database;

(c) Ensure that any information entered into the database relates to a criminal street gang associate or gang member who is twelve years old or older;

(d) Annually produce a gang threat assessment report including available data sources such as uniform crime reports, record management systems, and entries into the statewide gang database. Local public schools shall also be encouraged to provide data to the local gang threat assessment report.

(8) The database and all contents in the database are confidential and exempt from public disclosure under chapter 42.56 RCW.

(9) Any public employee or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving a person who has been included in the database, unless it is shown that an employee acted with gross negligence or bad faith.

**Sec. 202.** RCW 42.56.240 and 2005 c 274 s 404 are each amended to read as follows:

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

(2) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies; ~~((and))~~

(5) Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator; and

(6) The statewide gang database referenced in section 201 of this act.

### PART III ADDITIONAL MEASURES TO COMBAT GANG-RELATED CRIME

#### Increase In Sentences For Adults Who Recruit Juveniles

**Sec. 301.** RCW 9.94A.533 and 2007 c 368 s 9 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 9A.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 9A.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 9A.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 9A.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.

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, 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:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation 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);

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection 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 sexual motivation 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;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one-year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in ~~((the))~~ the sexual conduct in return for a fee, an additional one-year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10)(a) For a person age eighteen or older convicted of any criminal street gang-related felony offense for which the person compensated, threatened, or solicited a minor in order to involve the minor in the commission of the felony offense, 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 one hundred twenty-five percent. If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

(b) This subsection does not apply to any criminal street gang-related felony offense for which involving a minor in the commission of the felony offense is an element of the offense.

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

**NEW SECTION. Sec. 302.** A new section is added to chapter 9.94A RCW to read as follows:

(1) In a prosecution of a criminal street gang-related felony offense, the prosecution may file a special allegation that the felony offense involved the compensation, threatening, or solicitation of a minor in order to involve that minor in the commission of the felony offense, as described under RCW 9.94A.533(10)(a).

(2) The state has the burden of proving a special allegation made under this section beyond a reasonable doubt. If a jury is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether the criminal street gang-related felony offense involved the compensation, threatening, or solicitation of a minor in order to involve that minor in the commission of the felony offense. If no jury is had, the court shall make a finding of fact as to whether the criminal street gang-related felony offense involved the compensation, threatening, or solicitation of a minor in order to involve that minor in the commission of the felony offense.

#### **Expansion Of The List Of Aggravating Factors**

**Sec. 303.** RCW 9.94A.535 and 2007 c 377 s 10 are each amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

(a) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence

that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(3) Aggravating Circumstances - Considered by a Jury - Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property or nonferrous metal property, as defined in RCW 19.290.010.

(aa) The defendant committed the offense with the intent to directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage to or for a criminal street gang as defined in RCW 9.94A.030, its reputation, influence, or membership.

#### **Requiring Community Custody For Unlawful Possession Of A Firearm**

**Sec. 304.** RCW 9.94A.545 and 2006 c 128 s 4 are each amended to read as follows:

(1) Except as provided in RCW 9.94A.650 and in subsection (2) of this section, on all sentences of confinement for one year or less, in which the offender is convicted of a sex offense, a violent offense, a crime against a person under RCW 9.94A.411, or felony violation of chapter 69.50 or 69.52 RCW or an attempt, conspiracy, or solicitation to commit such a crime, the court may impose up to one year of community custody, subject to conditions and sanctions as authorized in RCW 9.94A.715 and 9.94A.720. An offender shall be on community custody as of the date of sentencing. However, during the time for which the offender is in total or partial confinement pursuant to the sentence or a violation of the sentence, the period of community custody shall toll.

(2)(a) If the offender is guilty of failure to register under RCW 9A.44.130(~~((+0))~~) (11)(a), the court shall impose a term of community custody under RCW 9.94A.715.

(b) If the offender is a criminal street gang associate or member and is found guilty of unlawful possession of a firearm under RCW 9.41.040, the court shall impose a term of community custody under RCW 9.94A.715.

(c) In a criminal case in which there has been a special allegation, the state shall prove by a preponderance of the evidence that the accused is a criminal street gang member or associate as defined in RCW 9.94A.030 and has committed the crime of unlawful possession of a firearm. The court shall make a finding of fact of whether or not the accused was a criminal street gang member or associate at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether or not the accused was a criminal street gang member or associate during the commission of the crime.

**Sec. 305.** RCW 9.94A.715 and 2006 c 130 s 2 and 2006 c 128 s 5 are each reenacted and amended to read as follows:

(1) When a court sentences a person to the custody of the department for a sex offense not sentenced under RCW 9.94A.712, a violent offense, any crime against persons under RCW 9.94A.411(2), an offense involving the unlawful possession of a firearm under RCW 9.41.040, where the offender is a criminal street gang member or associate, or a felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, or when a court sentences a person to a term of confinement of one year or less for a violation of RCW 9A.44.130(~~((+0))~~) (11)(a) committed on or after June 7, 2006, the court shall in addition to the other terms of the sentence, sentence the offender to community custody for the community custody range established under RCW 9.94A.850 or up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer. The community custody shall begin: (a) Upon completion of the term of confinement; (b) at such time as the offender is transferred to community custody in lieu of earned release in accordance with RCW 9.94A.728 (1) and (2); or (c) with

regard to offenders sentenced under RCW 9.94A.660, upon failure to complete or administrative termination from the special drug offender sentencing alternative program. Except as provided in RCW 9.94A.501, the department shall supervise any sentence of community custody imposed under this section.

(2)(a) Unless a condition is waived by the court, the conditions of community custody shall include those provided for in RCW 9.94A.700(4). The conditions may also include those provided for in RCW 9.94A.700(5). The court may also order the offender to participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community, and the department shall enforce such conditions pursuant to subsection (6) of this section.

(b) As part of any sentence that includes a term of community custody imposed under this subsection, the court shall also require the offender to comply with any conditions imposed by the department under RCW 9.94A.720. The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of the offender's community custody based upon the risk to community safety. In addition, the department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws. The department may impose electronic monitoring as a condition of community custody for an offender sentenced to a term of community custody under this section pursuant to a conviction for a sex offense. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring imposed under this section using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning system technology.

(c) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court imposed conditions. The department shall notify the offender in writing of any such conditions or modifications. In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

(3) If an offender violates conditions imposed by the court or the department pursuant to this section during community custody, the department may transfer the offender to a more restrictive confinement status and impose other available sanctions as provided in RCW 9.94A.737 and 9.94A.740.

(4) Except for terms of community custody under RCW 9.94A.670, the department shall discharge the offender from community custody on a date determined by the department, which the department may modify, based on risk and performance of the offender, within the range or at the end of the period of earned release, whichever is later.

(5) At any time prior to the completion or termination of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions imposed pursuant to this section for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody. If a violation of a condition extended under this subsection occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW

9.94A.631 and may be punishable as contempt of court as provided for in RCW 7.21.040. If the court extends a condition beyond the expiration of the term of community custody, the department is not responsible for supervision of the offender's compliance with the condition.

(6) Within the funds available for community custody, the department shall determine conditions and duration of community custody on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection.

(7) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to any of the following: (a) The crime of conviction; (b) the offender's risk of reoffending; or (c) the safety of the community.

#### **Making Subsequent Convictions Of Malicious Mischief 3 A Gross Misdemeanor Offense**

NEW SECTION. Sec. 306. A new section is added to chapter 9A.48 RCW to read as follows:

(1) A person is guilty of criminal street gang tagging and graffiti if he or she commits malicious mischief in the third degree under RCW 9A.48.090(1)(b) and he or she:

(a) Has multiple current convictions for malicious mischief in the third degree offenses under RCW 9A.48.090(1)(b); or

(b) Has previously been convicted for a malicious mischief in the third degree offense under RCW 9A.48.090(1)(b) or a comparable offense under a municipal code provision of any city or town; and

(c) The current offense or one of the current offenses is a "criminal street gang-related offense" as defined in RCW 9.94A.030.

(2) Criminal street gang tagging and graffiti is a gross misdemeanor offense.

#### **Civil Cause Of Action For Graffiti And Tagging**

NEW SECTION. Sec. 307. A new section is added to chapter 4.24 RCW to read as follows:

(1) An adult or emancipated minor who commits criminal street gang tagging and graffiti under section 306 of this act by causing physical damage to the property of another is liable in addition to actual damages, for a penalty to the owner in the amount of the value of the damaged property not to exceed one thousand dollars, plus an additional penalty of not less than one hundred dollars nor more than two hundred dollars, plus all reasonable attorneys' fees and court costs expended by the owner.

(2) A conviction for violation of section 306 of this act is not a condition precedent to maintenance of a civil action authorized by this section.

(3) An owner demanding payment of a penalty under subsection (1) of this section shall give written notice to the person or persons from whom the penalty is sought.

**Sec. 308.** RCW 10.22.010 and 1999 c 143 s 45 are each amended to read as follows:

When a defendant is prosecuted in a criminal action for a misdemeanor, other than a violation of section 306 of this act, for which the person injured by the act constituting the offense has a remedy by a civil action, the offense may be compromised as provided in RCW 10.22.020, except when it was committed:

- (1) By or upon an officer while in the execution of the duties of his office(-);
- (2) Riotously;
- (3) With an intent to commit a felony; or
- (4) By one family or household member against another as defined in RCW 10.99.020 and was a crime of domestic violence as defined in RCW 10.99.020.

### **Criminal Street Gang Definition**

**Sec. 309.** RCW 9.94A.030 and 2006 c 139 s 5, 2006 c 124 s 1, 2006 c 122 s 7, 2006 c 73 s 5, and 2005 c 436 s 1 are each reenacted and amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, 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) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(16) "Criminal street gang associate or member" means any person who actively participates in any criminal street gang and who intentionally promotes, furthers, or assists in any criminal act by the criminal street gang.

(17) "Criminal street gang-related offense" means any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further, or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons:

(a) To gain admission, prestige, or promotion within the gang;

(b) To increase or maintain the gang's size, membership, prestige, dominance, or control in any geographical area;

(c) To exact revenge or retribution for the gang or any member of the gang;

(d) To obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang;

(e) To directly or indirectly cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); or promoting pornography (chapter 9.68 RCW).

(18) "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))~~ (19) "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))~~ (20) "Department" means the department of corrections.

~~((18))~~ (21) "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))~~ (22) "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))~~ (23) "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))~~ (24) "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))~~ (25) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

~~((23))~~ (26) "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))~~ (27) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

~~((25))~~ (28) "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))~~ (29) "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))~~ (30) "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))~~ (31) "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))~~ (32) "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))~~ (33) "Nonviolent offense" means an offense which is not a violent offense.

~~((31))~~ (34) "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))~~ (35) "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))~~ (36) "Pattern of criminal street gang activity" means:

(a) The commission, attempt, conspiracy, or solicitation of, or any prior juvenile adjudication of or adult conviction of, two or more of the following criminal street gang-related offenses:

(i) Any "serious violent" felony offense as defined in RCW 9.94A.030, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a Child 1 (RCW 9A.36.120);

(ii) Any "violent" offense as defined by RCW 9.94A.030, excluding Assault of a Child 2 (RCW 9A.36.130);

(iii) Deliver or Possession with Intent to Deliver a Controlled Substance (chapter 69.50 RCW);

(iv) Any violation of the firearms and dangerous weapon act (chapter 9.41 RCW);

(v) Theft of a Firearm (RCW 9A.56.300);

(vi) Possession of a Stolen Firearm (RCW 9A.56.310);

(vii) Malicious Harassment (RCW 9A.36.080);

(viii) Harassment where a subsequent violation or deadly threat is made (RCW 9A.46.020(2)(b));

(ix) Criminal Gang Intimidation (RCW 9A.46.120);

(x) Any felony conviction by a person eighteen years of age or older with a special finding of involving a juvenile in a felony offense under section 302 of this act;

(xi) Residential Burglary (RCW 9A.52.025);

(xii) Burglary 2 (RCW 9A.52.030);

(xiii) Malicious Mischief 1 (RCW 9A.48.070);

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(37) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection ~~((33))~~ (37)(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))~~ (38) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

~~((35))~~ (39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

~~((36))~~ (40) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

~~((37))~~ (41) "Public school" has the same meaning as in RCW 28A.150.010.

~~((38))~~ (42) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

~~((39))~~ (43) "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.

~~((40))~~ (44) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

~~((41))~~ (45) "Serious violent offense" is a subcategory of violent offense and means:

- (a)(i) Murder in the first degree;
- (ii) Homicide by abuse;
- (iii) Murder in the second degree;
- (iv) Manslaughter in the first degree;
- (v) Assault in the first degree;
- (vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

~~((42))~~ (46) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(~~((11))~~) (12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

~~((43))~~ (47) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

~~((44))~~ (48) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

~~((45))~~ (49) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

~~((46))~~ (50) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

~~((47))~~ (51) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

~~((48))~~ (52) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

~~((49))~~ (53) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

~~((50))~~ (54) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;  
 (x) Extortion in the first degree;  
 (xi) Robbery in the second degree;  
 (xii) Drive-by shooting;  
 (xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

~~((51))~~ (55) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

~~((52))~~ (56) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

~~((53))~~ (57) "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.

#### PART IV STATE PREEMPTION

**NEW SECTION. Sec. 401.** (1) The state of Washington hereby fully occupies and preempts the entire field of definitions used for purposes of substantive criminal law relating to criminal street gangs, criminal street gang-related offenses, criminal street gang associates and members, and pattern of criminal street gang activity. These definitions of "criminal street gang," "criminal street gang associate or member," "criminal street gang-related offense," and "pattern of criminal street gang activity" contained in RCW 9.94A.030 expressly preempt any conflicting city or county codes or ordinances. Cities, towns, counties, or other municipalities may enact laws and ordinances relating to criminal street gangs that contain definitions that are consistent with definitions pursuant to RCW 9.94A.030. Local laws and ordinances that are inconsistent with the definitions shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such city, town, county, or municipality.

(2) The preemption provided in this chapter does not apply to "gang" as defined in RCW 28A.600.455 under the common school provisions act or "gang" as defined in RCW 59.18.030 under the landlord-tenant act.

(3) The preemption provided for in this chapter does not restrict the adoption or use of a uniform state definition of "gang," "gang member," or "gang associate," for purposes of the creation and maintenance of the statewide gang database for law enforcement intelligence purposes under section 201 of this act.

#### PART V

#### TEMPORARY WITNESS RELOCATION PROGRAM

**NEW SECTION. Sec. 501.** A new section is added to chapter 43.31 RCW to read as follows:

The legislature recognizes that witnesses are often fearful of testifying against criminal gang members. Witnesses may be subject to harassment, intimidation, and threats. While the state does not ensure protection of witnesses, the state intends to provide resources to assist local prosecutors in combating gang-related crimes and to help citizens perform their civic duty to testify in these cases.

**NEW SECTION. Sec. 502.** A new section is added to chapter 43.31 RCW to read as follows:

(1) Subject to available funds, the department of community, trade, and economic development shall establish a temporary witness assistance grant program for witnesses of felony criminal street gang-related offenses. The department of community, trade, and economic development shall develop a formula for distributing temporary witness assistance grants and consideration shall primarily be given to those county prosecutors that show that there is a significant gang problem in their jurisdiction.

(2) As part of the temporary witness assistance grant program, the department of community, trade, and economic development shall work in collaboration with each local prosecuting attorney to determine how and how much grant funding shall be distributed in order to reimburse county prosecutors in assisting witnesses of felony gang-related offenses with temporary assistance, relocation, and shelter.

(3) Each temporary witness assistance grant awarded shall be limited to a maximum of five thousand dollars per witness of a felony criminal street gang-related offense or for a period of no more than three months.

(4) Based upon the prior approval of the department of community, trade, and economic development, approved county prosecutor costs incurred for providing temporary witness assistance shall be reimbursed to the respective county prosecutor's office on a quarterly basis.

(5) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages resulting from the temporary witness assistance program, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith.

**NEW SECTION. Sec. 503.** If specific funding for purposes of section 502 of this act, referencing section 502 of this act by bill or chapter and section number, is not provided by June 30, 2008, in the omnibus operating appropriations act, section 502 of this act is null and void.

#### PART VI STUDY ON BEST PRACTICES TO REDUCE GANG INVOLVEMENT WHILE INCARCERATED

**NEW SECTION. Sec. 601.** A new section is added to chapter 72.09 RCW to read as follows:

(1) The department shall study and establish best practices to reduce gang involvement and recruitment among incarcerated offenders. The department shall study and make recommendations regarding the establishment of:

(a) Intervention programs within the institutions of the department for offenders who are seeking to opt out of gangs. The

intervention programs shall include, but are not limited to, tattoo removal, anger management, GED, and other interventions; and

(b) An intervention program to assist gang members with successful reentry into the community.

(2) The department shall report to the legislature on its findings and recommendations by January 1, 2009.

**PART VII  
MISCELLANEOUS**

NEW SECTION. Sec. 701. 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. 702. Part headings and subheadings used in this act are not any part of the law.

NEW SECTION. Sec. 703. Section 401 of this act constitutes a new chapter in Title 9 RCW.

NEW SECTION. Sec. 704. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

On page 1, line 1 of the title, after "gangs;" strike the remainder of the title and insert "amending RCW 42.56.240, 9.94A.533, 9.94A.535, 9.94A.545, and 10.22.010; reenacting and amending RCW 9.94A.715 and 9.94A.030; adding a new section to chapter 43.20A RCW; adding new sections to chapter 36.28A RCW; adding a new section to chapter 43.43 RCW; adding a new section to chapter 9.94A RCW; adding a new section to chapter 9A.48 RCW; adding a new section to chapter 4.24 RCW; adding a new section to chapter 28A.300 RCW; adding new sections to chapter 43.31 RCW; adding a new section to chapter 72.09 RCW; adding a new chapter to Title 9 RCW; creating new sections; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2712 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL  
AS SENATE AMENDED**

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

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 2712, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2712, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 92, Nays - 2, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 92.

Voting nay: Representatives Flannigan and Pettigrew - 2.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2712, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

March 6, 2008

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2722 with the following amendment:

On page 2, at the beginning of line 34, strike "secretary" and insert "president"

and the same is herewith transmitted.

Thomas Hoemann, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2722 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL  
AS SENATE AMENDED**

Representatives Pettigrew and Priest spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 2722, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2722, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

SECOND SUBSTITUTE HOUSE BILL NO. 2722, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2729 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that:

- (1) Washington state recognizes the importance of protecting its citizens from unwanted wireless surveillance.
- (2) Enhanced drivers' licenses and enhanced identicards are intended to facilitate efficient travel at land and sea borders between the United States, Canada, and Mexico, not to facilitate the profiling and tracking of individuals.
- (3) Easy access to the information found on enhanced drivers' licenses and enhanced identicards could facilitate the commission of other unwanted offenses, such as identity theft.

**NEW SECTION. Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Enhanced driver's license" means a driver's license that is issued under RCW 46.20.202.

(2) "Enhanced identicard" means an identicard that is issued under RCW 46.20.202.

(3) "Identification document" means an enhanced driver's license or an enhanced identicard.

(4) "Radio frequency identification" means a technology that uses radio waves to transmit data remotely to readers.

(5) "Reader" means a scanning device that is capable of using radio waves to communicate with an identification document and read the data transmitted by the identification document.

(6) "Remotely" means that no physical contact between the identification document and a reader is necessary in order to transmit data using radio waves.

(7) "Unique personal identifier number" means a randomly assigned string of numbers or symbols issued by the department of licensing that is encoded on an identification document and is intended to be read remotely by a reader to identify the identification document that has been issued to a particular individual.

**NEW SECTION. Sec. 3.** (1) Except as provided in subsection (2) of this section, a person is guilty of a class C felony if the person intentionally possesses, or reads or captures remotely using radio waves, information contained on another person's identification document, including the unique personal identifier number encoded on the identification document, without that person's express knowledge or consent.

(2) This section does not apply to:

(a) A person or entity that reads an identification document to facilitate border crossing;

(b) A person or entity that reads a person's identification document in the course of an act of good faith security research, experimentation, or scientific inquiry including, but not limited to, activities useful in identifying and analyzing security flaws and vulnerabilities; or

(c) A person or entity that unintentionally reads an identification document remotely in the course of operating its own radio frequency identification system, provided that the inadvertently received information:

- (i) Is not disclosed to any other party;
- (ii) Is not used for any purpose; and
- (iii) Is not stored or is promptly destroyed.

**NEW SECTION. Sec. 4.** The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying chapter 19.86 RCW.

**Sec. 5.** RCW 42.56.230 and 2005 c 274 s 403 are each amended to read as follows:

The following personal information is exempt from public inspection and copying under this chapter:

- (1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;
- (2) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;
- (3) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (a) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (b)

violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer; ~~((and))~~

(4) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law; and

(5) Documents and related materials and scanned images of documents and related materials used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.

**Sec. 6.** RCW 42.56.330 and 2007 c 197 s 5 are each amended to read as follows:

The following information relating to public utilities and transportation is exempt from disclosure under this chapter:

(1) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095;

(2) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order;

(3) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service; however, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides;

(4) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons;

(5) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety;

(6) Any information obtained by governmental agencies that is collected by the use of a motor carrier intelligent transportation system or any comparable information equipment attached to a truck, tractor, or trailer; however, the information may be given to other governmental agencies or the owners of the truck, tractor, or trailer from which the information is obtained. As used in this subsection, "motor carrier" has the same definition as provided in RCW 81.80.010; ~~((and))~~

(7) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally

identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order; and

(8) The personally identifying information of persons who acquire and use a driver's license or identicard that includes a radio frequency identification chip or similar technology to facilitate border crossing. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. Personally identifying information may be released to law enforcement agencies only for United States customs and border protection enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order.

**NEW SECTION. Sec. 7.** Sections 1 through 4 of this act constitute a new chapter in Title 9A RCW."

On page 1, line 1 of the title, after "documents;" strike the remainder of the title and insert "amending RCW 42.56.230 and 42.56.330; adding a new chapter to Title 9A RCW; and prescribing penalties."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 2729 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Eddy spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 2729, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2729, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Lias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller,

Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

SUBSTITUTE HOUSE BILL NO. 2729, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2783 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that students are accessing higher education differently than they have in previous years. Rather than attending a single institution and attaining their degree, many students now attend multiple institutions, sometimes simultaneously.

The legislature also finds that learning occurs throughout a person's lifetime. Whether citizens need different training to change careers or need further education for career advancement, people exit and reenter institutions of higher education multiple times and for various reasons.

The legislature also finds that current policies and practices do not provide clear, consistent, easily accessible information to ease transition in and among the state's colleges and universities. Often, courses taken at some career and technical schools as well as private for-profit institutions are not accepted in transfer because these schools are not accredited by a regional accrediting body. Students often do not understand that these courses are not transferrable. Students must retake courses once they have transferred into a regionally accredited institution, costing the student additional time and money.

Therefore, it is the legislature's intent to improve statewide communication and coordination of transfer and articulation policies and practices. Students should be provided clear, consistent information regarding the courses required for their degrees and how those courses will be treated when a student moves between colleges and universities. This information should be communicated to students and their families in one easily accessible place in a format that is common among all colleges and universities in the state.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) The higher education coordinating board shall convene a work group of representatives from the state board for community and technical colleges, the office of the superintendent of public instruction, the council of presidents, and two-year and four-year institutions of higher education including students, to develop a list

of rights guaranteed to students who have earned a transfer associate degree under the direct transfer agreement. The work group may be an existing work group that addresses policy issues related to transitions among public and private institutions of higher education and may also include representatives from the independent colleges of Washington, as well as the career and tribal colleges.

(2) The list in subsection (1) of this section shall be known as the transfer student bill of rights and shall include statements of institutional policy regarding transfer and articulation to assist students who have earned a transfer associate degree in their academic planning. The list shall include but is not limited to:

(a) Admission to each public and private two-year and four-year institution of higher education that participates in the direct transfer agreement;

(b) The number of credits that will transfer;

(c) Academic requirements fulfilled by the degree at the receiving institution;

(d) Acceptance of credit earned in dual enrollment and accelerated programs such as advanced placement, running start, and international baccalaureate;

(e) Acceptance of credits earned at nonregionally accredited institutions; and

(f) Advance knowledge of selection criteria for limited access programs.

(3) The work group shall determine which elements in this section are guaranteed to students entering a four-year institution of higher education and which elements differ based on admission requirements at a specific institution or program. The work group must determine the clearest manner in which to communicate this information to students and their families as part of the transfer student bill of rights.

(4) The transfer student bill of rights shall be displayed prominently in a user-friendly area of each institution's web site. Admissions offices, transfer planning offices, recruiting offices and other relevant offices at public and private institutions of higher education shall also make the transfer student bill of rights available to prospective and enrolled students. Public institutions of higher education shall make the bill of rights available by September 2009. The transfer student bill of rights may also be used by private institutions of higher education participating in direct transfer agreements.

(5) For purposes of this section, "nonregionally accredited institutions" means only those institutions that are fully accredited by a national accrediting agency recognized by the United States department of education.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28B.76 RCW to read as follows:

(1) The higher education coordinating board must convene a work group including representatives from the state board for community and technical colleges, the workforce training and education coordinating board, the council of presidents, two-year institutions of higher education, and four-year institutions of higher education to develop a plan to monitor the progress and success of transfer students. The workgroup may be an existing work group that addresses policy issues related to transitions across institutions of higher education.

(2) The plan shall contain data that measures student progress through the higher education system that can be monitored over time. This information shall include, but not be limited to:

(a) The number of students who indicate their intent to transfer at the time of enrollment and the percentage of those students who actually transfer or earn an associate degree within three years;

(b) Educational outcomes for students who declare their intent to transfer, earn at least fifteen academic credits, and transfer within three years;

(c) The percentage of students who earn their four-year degree within three years of earning their associate degree;

(d) The average time and credits to completion of an academic transfer degree including the direct transfer agreement, the associate of science-transfer, and all major related programs; and

(e) The average grade point average for students who attain their transfer associate degrees.

(3) The plan shall also include analysis regarding the barriers that transfer students face in pursuit of their four-year degree and recommendations to address those barriers.

(4) The higher education coordinating board, in collaboration with the work group and the state board for community and technical colleges, shall report to the appropriate committees of the legislature by January 2009, and thereafter on a time schedule consistent with reporting related to monitoring progress toward the higher education coordinating board master plan goals.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) Consistent with the statewide strategic master plan for higher education, the higher education coordinating board shall convene a work group identified in section 2(1) of this act that shall recommend the best means to identify, at the time of registration, the transferability and applicability of community and technical college courses to students' baccalaureate degree goals.

(2) Whether and to what extent each course published in an institutional catalog is transferrable must be identified in a manner mutually agreed upon by the two-year institutions of higher education and four-year institutions of higher education.

(3) Institutions of higher education must publish this information either on the internet, in physical course catalogs, or by another means identified by the work group that addresses the needs of students without access to the internet.

(4) The system of identification in this section shall be implemented by September 2009.

**NEW SECTION. Sec. 5.** (1) Consistent with the schedule and work plans for implementation of the strategic master plan for higher education, the higher education coordinating board shall convene a work group or assign an existing work group that includes broad representation from the workforce training and education coordinating board, the state board for community and technical colleges, institutions of higher education, the independent colleges of Washington, the career and tribal colleges, the center for information services, student representatives from two-year and four-year institutions of higher education, and the office of the superintendent of public instruction to create a detailed plan for developing and implementing a statewide web-based academic planning tool. The web-based academic planning tool would be used by current, prospective, and returning students to plan their path from high school through the attainment of their higher education goals.

(2) The plan shall contain information including, but not limited to:

(a) Functions that will be included in the web site;

(b) Options for development including, but not limited to: Purchasing the entire system from a vendor; purchasing parts of the

system from a private vendor; building parts of the system with Washington informational technology resources; and building the entire system with Washington information technology resources; and

(c) Costs associated with each of the options in this subsection.

(3) The higher education coordinating board shall report to the appropriate committees of the legislature by December 15, 2008. The report shall include recommendations on the most robust yet cost-effective options for the web-based academic planning tool.

**NEW SECTION. Sec. 6.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "adding new sections to chapter 28B.10 RCW; adding a new section to chapter 28B.76 RCW; and creating new sections."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2783 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Wallace and Anderson spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 2783, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2783, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Lias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts,

Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2783, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2817 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 64.44.050 and 2006 c 339 s 205 are each amended to read as follows:

(1) An owner of contaminated property who desires to have the property decontaminated, demolished, or disposed of shall use the services of an authorized contractor unless otherwise authorized by the local health officer. The contractor and property owner shall prepare and submit a written work plan for decontamination, demolition, or disposal to the local health officer. The local health officer may charge a reasonable fee for review of the work plan. If the work plan is approved and the decontamination, demolition, or disposal is completed and the property is retested according to the plan and properly documented, then the health officer shall allow reuse of the property. A release for reuse document shall be recorded in the real property records indicating the property has been decontaminated, demolished, or disposed of in accordance with rules of the state department of health. The property owner is responsible for: (a) The costs of any property testing which may be required to demonstrate the presence or absence of hazardous chemicals; and (b) the costs of the property's decontamination, demolition, and disposal expenses, as well as costs incurred by the local health officer resulting from the enforcement of this chapter.

(2)(a) In a case where the contaminated property is a motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010, and the local health officer has issued an order declaring the property unfit and prohibiting its use, the city or county in which the property is located shall take action to prohibit use, occupancy, or removal, and shall require demolition, disposal, or decontamination of the property. The city, county, or local law enforcement agency may impound the vehicle or vessel to enforce this chapter.

(b) The property owner shall have the property demolished, disposed of, or decontaminated by an authorized contractor, or under a written work plan approved by the local health officer, within thirty days of receiving the order declaring the property unfit and prohibited from use. After all procedures granting the right of notice and the opportunity to appeal in RCW 64.44.030 have been exhausted, if the property owner has not demolished, disposed of, or decontaminated the property using an authorized contractor, or under a written work

plan approved by the local health officer within thirty days, then the local health officer or the local law enforcement agency may demolish, dispose of, or decontaminate the property. The property owner is responsible for the costs of the property's demolition, disposal, or decontamination, as well as all costs incurred by the local health officer or the local law enforcement agency resulting from the enforcement of this chapter, except as otherwise provided under this subsection.

(c) The legal owner of a motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010 whose sole basis of ownership is a bona fide security interest is responsible for costs under this subsection if the legal owner had knowledge of or consented to any act or omission that caused contamination of the vehicle or vessel.

(d) If the vehicle or vessel has been stolen and the property owner neither had knowledge of nor consented to any act or omission that contributed to the theft and subsequent contamination of the vehicle or vessel, the owner is not responsible for costs under this subsection. However, if the registered owner is insured, the registered owner shall, within fifteen calendar days of receiving an order declaring the property unfit and prohibiting its use, submit a claim to his or her insurer for reimbursement of costs of the property's demolition, disposal, or decontamination, as well as all costs incurred by the local health officer or the local law enforcement agency resulting from the enforcement of this chapter, and shall provide proof of claim to the local health officer or the local law enforcement agency.

(e) If the property owner has not acted to demolish, dispose of, or decontaminate as set forth in this subsection regardless of responsibility for costs, and the local health officer or local law enforcement agency has taken responsibility for demolition, disposal, or decontamination, including all associated costs, then all rights, title, and interest in the property shall be deemed forfeited to the local health jurisdiction or the local law enforcement agency.

(f) This subsection may not be construed to limit the authority of a city, county, local law enforcement agency, or local health officer to take action under this chapter to require the owner of the real property upon which the contaminated vehicle or vessel is located to comply with the requirements of this chapter, including provisions for the right of notice and opportunity to appeal as provided in RCW 64.44.030.

(3) Except as provided in subsection (2) of this section, the local health officer has thirty days from the issuance of an order declaring a property unfit and prohibiting its use to establish a reasonable timeline for decontamination. The department of health shall establish the factors to be considered by the local health officer in establishing the appropriate amount of time.

The local health officer shall notify the property owner of the proposed time frame by United States mail to the last known address. Notice shall be postmarked no later than the thirtieth day from the issuance of the order. The property owner may request a modification of the time frame by submitting a letter identifying the circumstances which justify such an extension to the local health officer within thirty-five days of the date of the postmark on the notification regardless of when received.

**NEW SECTION. Sec. 2.** A new section is added to chapter 64.44 RCW to read as follows:

(1) The Washington state department of licensing shall take action to place notification on the title of any motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010, that the vehicle or vessel

has been declared unfit and prohibited from use by order of the local health officer under this chapter. When satisfactory decontamination has been completed and the contaminated property has been retested according to the written work plan approved by the local health officer, a release for reuse document shall be issued by the local health officer, and the department of licensing shall place notification on the title of that vehicle or vessel as having been decontaminated and released for reuse.

(2)(a) A person is guilty of a gross misdemeanor if he or she advertises for sale or sells a motor vehicle as defined in RCW 46.04.320, a vehicle as defined in RCW 46.04.670, or a vessel as defined in RCW 88.02.010, that has been declared unfit and prohibited from use by the local health officer under this chapter when:

(i) The person has knowledge that the local health officer has issued an order declaring the vehicle or vessel unfit and prohibiting its use; or

(ii) A notification has been placed on the title under subsection (1) of this section that the vehicle or vessel has been declared unfit and prohibited from use.

(b) A person may advertise or sell a vehicle or vessel when a release for reuse document has been issued by the local health officer under this chapter or a notification has been placed on the title under subsection (1) of this section that the vehicle or vessel has been decontaminated and released for reuse.

**NEW SECTION. Sec. 3.** A new section is added to chapter 46.55 RCW to read as follows:

An impound under RCW 64.44.050 shall not be considered an impound under this chapter. A tow operator who contracts with a law enforcement agency for transporting a vehicle impounded under RCW 64.44.050 shall only remove the vehicle to a secure public facility, and is not required to store or dispose of the vehicle. The vehicle shall remain in the care, custody, and control of the law enforcement agency to be demolished, disposed of, or decontaminated as provided under RCW 64.44.050. The law enforcement agency shall pay for all costs incurred as a result of the towing if the vehicle owner does not pay within thirty days. The law enforcement agency may seek reimbursement from the owner.

**NEW SECTION. Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus transportation appropriations act, this act is null and void."

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "contaminated motor vehicles, vehicles, and vessels; amending RCW 64.44.050; adding a new section to chapter 64.44 RCW; adding a new section to chapter 46.55 RCW; and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2817 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL  
AS SENATE AMENDED**

Representatives Campbell and Sump spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 2817, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2817, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2817, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

March 7, 2008

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 3120 with the following amendment:

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** (1)(a) The legislature finds that green building, also called "sustainable" or "high-performance" building, has significant environmental benefits. Buildings consume thirty-six percent of the energy used in the United States, more than factories and automobiles, and they generate thirty percent of the nation's greenhouse gas emissions. The construction of commercial, residential, public, or institutional buildings using energy-efficient

techniques and environmentally sustainable products also connects to the state's climate change goals.

(b) The legislature further finds that standards for green building provide an effective framework for green building practices. Some techniques have been shown to reduce building energy costs by twenty to fifty percent and water usage by at least fifty percent outdoors and thirty percent indoors. It is in the interest of the state to encourage the best green building practices through targeted incentives and policies.

(c) The legislature intends to establish a connection between green construction and the need for local governments to adopt "green" land use provisions, permitting standards, and building codes that allow green building, in order to achieve the most effective climate change policies.

(2) The department of community, trade, and economic development shall conduct a study to determine the potential feasibility and effectiveness of providing tax incentives to encourage green building in commercial, residential, and public buildings. The department of revenue shall provide any tax-related data necessary for the department of community, trade, and economic development to perform the study.

(3) In conducting the study, the department of community, trade, and economic development shall:

(a) Identify existing tax incentives with the primary purpose of encouraging green building;

(b) Propose tax incentives that would encourage green building, with special emphasis on sales and use tax exemptions on green building construction activities and business and occupation tax incentives for contractors or architects that build or design green buildings;

(c) Provide an estimate on the fiscal cost for each tax incentive identified under (b) of this subsection;

(d) Provide an estimate of cost savings and emission reductions for the estimated number of buildings that would qualify for a tax incentive identified under (b) of this subsection;

(e) Recommend other tax and programmatic policy changes that would encourage green building;

(f) Evaluate whether tax incentives should target communities that encourage green building; and

(g) Evaluate current trends in green building and whether tax incentives would support these trends.

(4) The department of community, trade, and economic development may include any other information in the study that it deems necessary for the legislative evaluation of potential tax incentives to encourage green building.

(5) By December 1, 2008, the department of community, trade, and economic development shall report its findings and recommendations to the appropriate committees of the legislature."

On page 1, line 2 of the title, after "construction;" strike the remainder of the title and insert "and creating a new section."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 3120 and advanced the bill as amended by the Senate to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Rolfes and Orcutt spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 3120, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 3120, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 91, Nays - 3, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 91.

Voting nay: Representatives Chandler, DeBolt and Hinkle - 3.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

SUBSTITUTE HOUSE BILL NO. 3120, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

March 7, 2008

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 3144 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that in an era of consumer product recalls, increasing state emphasis on quality ratings and accountability, and decreasing resources at the federal level for consumer protection, there may be a gap in outreach to consumers in the state. The legislature further finds that many state agencies provide helpful information to consumers, but consumers may not always know where to look to find such information. To

remedy this potential information gap, the legislature declares that a "one-stop" consumer protection web site should be created so that consumers in Washington state have access to clear and appropriate information regarding consumer services that are available to them across state government.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.105 RCW to read as follows:

(1) The department shall coordinate among state agencies to develop a consumer protection web site. The web site shall serve as a one-stop web site for consumer information. At a minimum, the web site must provide links to information on:

(a) Insurance information provided by the office of the insurance commissioner, including information on how to file consumer complaints against insurance companies, how to look up authorized insurers, and how to learn more about health insurance benefits;

(b) Child care information provided by the department of early learning, including how to select a child care provider, how child care providers are rated, and information about product recalls;

(c) Financial information provided by the department of financial institutions, including consumer information on financial fraud, investing, credit, and enforcement actions;

(d) Health care information provided by the department of health, including health care provider listings and quality assurance information;

(e) Home care information provided by the home care quality authority, including information to assist consumers in finding an in-home provider;

(f) Licensing information provided by the department of licensing, including information regarding business, vehicle, and professional licensing; and

(g) Other information available on existing state agency web sites that could be a helpful resource for consumers.

(2) By July 1, 2008, state agencies shall report to the department on whether they maintain resources for consumers that could be made available through the consumer protection web site.

(3) By September 1, 2008, the department shall make the consumer protection web site available to the public.

(4) After September 1, 2008, the department, in coordination with other state agencies, shall develop a plan on how to build upon the consumer protection web site to create a consumer protection portal. The plan must also include an examination of the feasibility of developing a toll-free information line to support the consumer protection portal. The plan must be submitted to the governor and the appropriate committees of the legislature by December 1, 2008.

**NEW SECTION. Sec. 3.** (1) Within existing funds, the attorney general shall conduct a study to:

(a) Determine the percentage of consumer complaints of possible consumer protection act violations received by its consumer resource centers that are resolved to the consumer's satisfaction; and

(b) Develop possible sanctions that the attorney general may use if it determines that a consumer's complaint is legitimate and the business fails to provide the consumer with an adequate remedy or response.

(2) The attorney general shall report its findings to the legislature by December 1, 2008.

**NEW SECTION. Sec. 4.** Section 3 of this act expires December 31, 2008."

On page 1, line 2 of the title, after "line;" strike the remainder of the title and insert "adding a new section to chapter 43.105 RCW; creating new sections; and providing an expiration date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 3144 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Liias and Crouse spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute House Bill No. 3144, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 3144, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

SUBSTITUTE HOUSE BILL NO. 3144, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

March 6, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3205 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION, Sec. 1.** The legislature finds that meeting the needs of vulnerable children who enter the child welfare system includes protecting the child's right to a safe, stable, and permanent home where the child receives basic nurturing. The legislature also finds that according to measures of timely dependency case processing, many children's cases are not meeting the federal and state standards intended to promote child-centered decision making in dependency cases. The legislature intends to encourage a greater focus on children's developmental needs and to promote closer adherence to timeliness standards in the resolution of dependency cases.

**Sec. 2.** RCW 13.34.136 and 2007 c 413 s 7 are each amended to read as follows:

(1) A permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the supervising agency's proposed permanency plan must be provided to the supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130(~~(4)~~) (5), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the agency will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(ii) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The agency shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. The court and the agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department.

(v) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vi) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(~~(4)~~) (5), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the earliest possible date, (~~(preferably before)~~). If the child has been in out-of-home care for fifteen of the most recent twenty-two months, the court shall require the department to file a petition seeking termination of parental rights in accordance with RCW 13.34.145(3)(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

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

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

**Sec. 3.** RCW 13.34.145 and 2007 c 413 s 9 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

At this hearing, the court shall order the department to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child. For purposes of this section, "good cause exception" includes but is not limited to the following: The child is being cared for by a relative; the department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home; or the department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the

foster parent or relative was informed of the hearing as required in RCW 74.13.280 (~~and 13.34.138~~), 13.34.215(5), and 13.34.096.

(4) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

**NEW SECTION. Sec. 4.** If specific funding for the purposes of sections 2 and 3 of this act, referencing sections 2 and 3 of this act by bill or chapter number and section number, is not provided by June 30, 2008, in the omnibus appropriations act, sections 2 and 3 of this act are null and void.

**Sec. 5.** RCW 43.121.185 and 2007 c 466 s 4 are each amended to read as follows:

To recognize the focus on home visitation services, (~~the Washington council for the prevention of child abuse and neglect is hereby renamed~~) the children's trust of Washington is hereby renamed the council for children and families. (~~All references to the Washington council for the prevention of child abuse and neglect in the Revised Code of Washington shall be construed to mean the children's trust of Washington.~~)

**Sec. 6.** RCW 43.121.180 and 2007 c 466 s 3 are each amended to read as follows:

(1) Within available funds, the (~~children's trust of Washington~~) council for children and families shall fund evidence-based and research-based home visitation programs for improving parenting skills and outcomes for children. Home visitation programs must be voluntary and must address the needs of families to alleviate the effect on child development of factors such as poverty, single parenthood, parental unemployment or underemployment, parental disability, or parental lack of high school diploma, which research shows are risk factors for child abuse and neglect and poor educational outcomes.

(2) The (~~children's trust of Washington~~) council for children and families shall develop a plan with the department of social and health services, the department of health, the department of early learning, and the family policy council to coordinate or consolidate home visitation services for children and families and report to the appropriate committees of the legislature by December 1, 2007, with their recommendations for implementation of the plan.

**Sec. 7.** RCW 43.121.020 and 2007 c 144 s 1 are each amended to read as follows:

(1) There is established in the executive office of the governor a (~~Washington council for the prevention of child abuse and neglect~~) council for children and families subject to the jurisdiction of the governor.

(2) The council shall be composed of the chairperson and four other members as follows:

(a) The chairperson and six other members shall be appointed by the governor and shall be selected for their interest and expertise in the prevention of child abuse. A minimum of four designees by the governor shall not be affiliated with governmental agencies. The appointments shall be made on a geographic basis to assure statewide representation. Members appointed by the governor shall serve for three-year terms. Vacancies shall be filled for any unexpired term by appointment in the same manner as the original appointments were made.

(b) The secretary of social and health services or the secretary's designee, the superintendent of public instruction or the superintendent's designee, the director of the department of early learning or the director's designee, and the secretary of the department of health or the secretary's designee shall serve as voting members of the council.

(c) In addition to the members of the council, four members of the legislature shall serve as nonvoting, ex officio members of the council, one from each political caucus of the house of

representatives to be appointed by the speaker of the house of representatives and one from each political caucus of the senate to be appointed by the president of the senate.

**Sec. 8.** RCW 43.121.015 and 1988 c 278 s 4 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Child" means an unmarried person who is under eighteen years of age.

(2) "Council" means the ~~((Washington council for the prevention of child abuse and neglect))~~ council for children and families.

(3) "Primary prevention" of child abuse and neglect means any effort designed to inhibit or preclude the initial occurrence of child abuse and neglect, both by the promotion of positive parenting and family interaction, and the remediation of factors linked to causes of child maltreatment.

(4) "Secondary prevention" means services and programs that identify and assist families under such stress that abuse or neglect is likely or families display symptoms associated with child abuse or neglect.

**Sec. 9.** RCW 43.15.020 and 2006 c 317 s 4 are each amended to read as follows:

The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

(1) The lieutenant governor serves on the following boards and committees:

(a) Capitol furnishings preservation committee, RCW 27.48.040;

(b) Washington higher education facilities authority, RCW 28B.07.030;

(c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;

(d) State finance committee, RCW 43.33.010;

(e) State capitol committee, RCW 43.34.010;

(f) Washington health care facilities authority, RCW 70.37.030;

(g) State medal of merit nominating committee, RCW 1.40.020;

(h) Medal of valor committee, RCW 1.60.020; and

(i) Association of Washington generals, RCW 43.15.030.

(2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:

(a) Organized crime advisory board, RCW 43.43.858;

(b) Civil legal aid oversight committee, RCW 2.53.010;

(c) Office of public defense advisory committee, RCW 2.70.030;

(d) Washington state gambling commission, RCW 9.46.040;

(e) Sentencing guidelines commission, RCW 9.94A.860;

(f) State building code council, RCW 19.27.070;

(g) Women's history consortium board of advisors, RCW 27.34.365;

(h) Financial literacy public-private partnership, RCW 28A.300.450;

(i) Joint administrative rules review committee, RCW 34.05.610;

(j) Capital projects advisory review board, RCW ~~((39.10.800))~~ 39.10.220;

(k) Select committee on pension policy, RCW 41.04.276;

(l) Legislative ethics board, RCW 42.52.310;

(m) Washington citizens' commission on salaries, RCW 43.03.305;

(n) Oral history advisory committee, RCW 43.07.230;

(o) State council on aging, RCW 43.20A.685;

(p) State investment board, RCW 43.33A.020;

(q) Capitol campus design advisory committee, RCW 43.34.080;

(r) Washington state arts commission, RCW 43.46.015;

(s) Information services board, RCW 43.105.032;

(t) K-20 educational network board, RCW 43.105.800;

(u) Municipal research council, RCW 43.110.010;

(v) ~~((Washington council for the prevention of child abuse and neglect))~~ Council for children and families, RCW 43.121.020;

(w) PNWER-Net working subgroup under chapter 43.147 RCW;

(x) Community economic revitalization board, RCW 43.160.030;

(y) Washington economic development finance authority, RCW 43.163.020;

(z) Tourism development advisory committee, RCW 43.330.095;

(aa) Life sciences discovery fund authority, RCW 43.350.020;

(bb) Legislative children's oversight committee, RCW 44.04.220;

(cc) Joint legislative audit and review committee, RCW 44.28.010;

(dd) Joint committee on energy supply and energy conservation, RCW 44.39.015;

(ee) Legislative evaluation and accountability program committee, RCW 44.48.010;

(ff) Agency council on coordinated transportation, RCW 47.06B.020;

(gg) Manufactured housing task force, RCW 59.22.090;

(hh) Washington horse racing commission, RCW 67.16.014;

(ii) Correctional industries board of directors, RCW 72.09.080;

(jj) Joint committee on veterans' and military affairs, RCW 73.04.150;

(kk) Washington state parks centennial advisory committee, RCW 79A.75.010;

(ll) Puget Sound council, RCW 90.71.030;

(mm) Joint legislative committee on water supply during drought, RCW 90.86.020;

(nn) Statute law committee, RCW 1.08.001; and

(oo) Joint legislative oversight committee on trade policy, RCW 44.55.020."

On page 1, line 1 of the title, after "children;" strike the remainder of the title and insert "amending RCW 13.34.136, 13.34.145, 43.121.185, 43.121.180, 43.121.020, 43.121.015, and 43.15.020; and creating new sections."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3205 and advanced the bill as amended by the Senate to final passage.

**FINAL PASSAGE OF HOUSE BILL**

**AS SENATE AMENDED**

Representatives Jarrett and Walsh spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 3205, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 3205, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3205, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

March 7, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3254 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 46.04 RCW to read as follows:

"Ignition interlock driver's license" means a permit issued to a person by the department that allows the person to operate a noncommercial motor vehicle with an ignition interlock device while the person's regular driver's license is suspended, revoked, or denied.

**Sec. 2.** RCW 46.20.308 and 2005 c 314 s 307 and 2005 c 269 s 1 are each reenacted and amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was in violation of RCW 46.61.503. Neither consent nor this section precludes a police officer from obtaining a search warrant for a person's breath or blood.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or the person to have been driving or in actual physical control of a motor vehicle while having alcohol in a concentration in violation of RCW 46.61.503 in his or her system and being under the age of twenty-one. However, in those instances where the person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample or where the person is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility or where the officer has reasonable grounds to believe that the person is under the influence of a drug, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(5). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver, in substantially the following language, that:

(a) If the driver refuses to take the test, the driver's license, permit, or privilege to drive will be revoked or denied for at least one year; and

(b) If the driver refuses to take the test, the driver's refusal to take the test may be used in a criminal trial; and

(c) If the driver submits to the test and the test is administered, the driver's license, permit, or privilege to drive will be suspended, revoked, or denied for at least ninety days if the driver is age twenty-one or over and the test indicates the alcohol concentration of the driver's breath or blood is 0.08 or more, or if the driver is under age twenty-one and the test indicates the alcohol concentration of the driver's breath or blood is 0.02 or more, or if the driver is under age twenty-one and the driver is in violation of RCW 46.61.502 or 46.61.504; and

(d) If the driver's license, permit, or privilege to drive is suspended, revoked, or denied the driver may be eligible to immediately apply for an ignition interlock driver's license.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which there has been serious bodily injury to another person, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be

deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) If, after arrest and after the other applicable conditions and requirements of this section have been satisfied, a test or tests of the person's blood or breath is administered and the test results indicate that the alcohol concentration of the person's breath or blood is 0.08 or more if the person is age twenty-one or over, or 0.02 or more if the person is under the age of twenty-one, or the person refuses to submit to a test, the arresting officer or other law enforcement officer at whose direction any test has been given, or the department, where applicable, if the arrest results in a test of the person's blood, shall:

(a) Serve notice in writing on the person on behalf of the department of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive as required by subsection (7) of this section;

(b) Serve notice in writing on the person on behalf of the department of his or her right to a hearing, specifying the steps he or she must take to obtain a hearing as provided by subsection (8) of this section and that the person waives the right to a hearing if he or she receives an ignition interlock driver's license;

(c) Mark the person's Washington state driver's license or permit to drive, if any, in a manner authorized by the department;

(d) Serve notice in writing that the marked license or permit, if any, is a temporary license that is valid for sixty days from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or until the suspension, revocation, or denial of the person's license, permit, or privilege to drive is sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit that it replaces; and

(e) Immediately notify the department of the arrest and transmit to the department within seventy-two hours, except as delayed as the result of a blood test, a sworn report or report under a declaration authorized by RCW 9A.72.085 that states:

(i) That the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or was under the age of twenty-one years and had been driving or was in actual physical control of a motor vehicle while having an alcohol concentration in violation of RCW 46.61.503;

(ii) That after receipt of the warnings required by subsection (2) of this section the person refused to submit to a test of his or her blood or breath, or a test was administered and the results indicated that the alcohol concentration of the person's breath or blood was 0.08 or more if the person is age twenty-one or over, or was 0.02 or more if the person is under the age of twenty-one; and

(iii) Any other information that the director may require by rule.

(7) The department of licensing, upon the receipt of a sworn report or report under a declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this section, shall suspend, revoke, or deny the person's license, permit, or privilege to drive or any nonresident operating privilege, as provided in RCW 46.20.3101, such suspension, revocation, or denial to be effective beginning sixty days

from the date of arrest or from the date notice has been given in the event notice is given by the department following a blood test, or when sustained at a hearing pursuant to subsection (8) of this section, whichever occurs first.

(8) A person receiving notification under subsection (6)(b) of this section may, within ~~((thirty))~~ twenty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of two hundred dollars as part of the request. If the request is mailed, it must be postmarked within ~~((thirty))~~ twenty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required two hundred dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required two hundred dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license marked under subsection (6)(c) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered without express consent as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more if the person was age twenty-one or over at the time of the arrest, or 0.02 or more if the person was under the age of twenty-one at the time of the arrest. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more and was under the age of twenty-one and that the officer complied with the requirements of this section.

A hearing officer shall conduct the hearing, may issue subpoenas for the attendance of witnesses and the production of documents, and shall administer oaths to witnesses. The hearing officer shall not issue a subpoena for the attendance of a witness at the request of the person unless the request is accompanied by the fee required by RCW 5.56.010 for a witness in district court. The sworn report or report

under a declaration authorized by RCW 9A.72.085 of the law enforcement officer and any other evidence accompanying the report shall be admissible without further evidentiary foundation and the certifications authorized by the criminal rules for courts of limited jurisdiction shall be admissible without further evidentiary foundation. The person may be represented by counsel, may question witnesses, may present evidence, and may testify. The department shall order that the suspension, revocation, or denial either be rescinded or sustained.

(9) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b) that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

(10)(a) If a person whose driver's license, permit, or privilege to drive has been or will be suspended, revoked, or denied under subsection (7) of this section, other than as a result of a breath or blood test refusal, and who has not committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, petitions a court for a deferred prosecution on criminal charges arising out of the arrest for which action has been or will be taken under subsection (7) of this section, or notifies the department of licensing of the intent to seek such a deferred prosecution, then the license suspension or revocation shall be stayed pending entry of the deferred prosecution. The stay shall not be longer than one hundred fifty days after the date charges are filed, or two years after the date of the arrest, whichever time period is shorter. If the court stays the suspension, revocation, or denial, it may impose conditions on such stay. If the person is otherwise eligible for licensing, the department shall issue a temporary license, or extend any valid temporary license marked under subsection (6) of this section, for the period of the stay. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, or

if the person violates any condition imposed by the court, then the court shall immediately direct the department to cancel the stay and any temporary marked license or extension of a temporary license issued under this subsection.

(b) A suspension, revocation, or denial imposed under this section, other than as a result of a breath or blood test refusal, shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(c) The provisions of (b) of this subsection relating to a stay of a suspension, revocation, or denial and the cancellation of any suspension, revocation, or denial do not apply to the suspension, revocation, denial, or disqualification of a person's commercial driver's license or privilege to operate a commercial motor vehicle.

(11) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

**NEW SECTION. Sec. 3.** A new section is added to chapter 46.68 RCW to read as follows:

The ignition interlock device revolving account is created in the state treasury. All receipts from the fee assessed under section 9(6) of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for administering and operating the ignition interlock device revolving account program.

**Sec. 4.** RCW 46.20.342 and 2004 c 95 s 5 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be an habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons

described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

- (i) A conviction of a felony in the commission of which a motor vehicle was used;
- (ii) A previous conviction under this section;
- (iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;
- (iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational ~~((or))~~ driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;
- (v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;
- (vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;
- (viii) A conviction of RCW 46.61.500, relating to reckless driving;
- (ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;
- (x) A conviction of RCW 46.61.520, relating to vehicular homicide;
- (xi) A conviction of RCW 46.61.522, relating to vehicular assault;
- (xii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;
- (xiii) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;
- (xiv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;
- (xv) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;
- (xvi) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;
- (xvii) An administrative action taken by the department under chapter 46.20 RCW; or
- (xviii) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection.

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the

violation, or (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or any combination of (i) through (vii), is guilty of driving while license suspended or revoked in the third degree, a misdemeanor.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

**Sec. 5.** RCW 46.20.380 and 2004 c 95 s 6 are each amended to read as follows:

No person may file an application for an occupational ~~((or))~~ driver's license, a temporary restricted driver's license, or an ignition interlock driver's license as provided in RCW 46.20.391 and section 9 of this act unless he or she first pays to the director or other person authorized to accept applications and fees for driver's licenses a fee of one hundred dollars. The applicant shall receive upon payment an official receipt for the payment of such fee. All such fees shall be forwarded to the director who shall transmit such fees to the state treasurer in the same manner as other driver's license fees.

**Sec. 6.** RCW 46.20.391 and 2004 c 95 s 7 are each amended to read as follows:

(1)~~((and))~~ Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide ~~((or))~~ vehicular assault, ~~((or who has had his or her license suspended, revoked, or denied under RCW 46.20.310))~~ driving while under the influence of intoxicating liquor or any drug, or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, may submit to the department an application for a temporary restricted driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue a temporary restricted driver's license and may set definite restrictions as provided in RCW 46.20.394. ~~((No person may petition for, and the department shall not issue, a temporary restricted driver's license that is effective during the first thirty days of any suspension or revocation imposed for a violation of RCW 46.61.502 or 46.61.504 or, for a suspension, revocation, or denial imposed under RCW 46.20.3101, during the required minimum portion of the periods of suspension, revocation, or denial established under (c) of this subsection.~~

~~—(b) An applicant under this subsection whose driver's license is suspended or revoked for an alcohol-related offense shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on a vehicle owned or operated by the person.~~

~~—(i) The department shall require the person to maintain such a device on a vehicle owned or operated by the person and shall restrict the person to operating only vehicles equipped with such a device, for the remainder of the period of suspension, revocation, or denial.~~

~~—(ii) Subject to any periodic renewal requirements established by the department pursuant to this section and subject to any applicable compliance requirements under this chapter or other law, a temporary restricted driver's license granted after a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.~~

~~—(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 (1) and (2) (a), (b), and (c).~~

~~—(c) The department shall provide by rule the minimum portions of the periods of suspension, revocation, or denial set forth in RCW 46.20.3101 after which a person may apply for a temporary restricted driver's license under this section. In establishing the minimum portions of the periods of suspension, revocation, or denial, the department shall consider the requirements of federal law regarding state eligibility for grants or other funding, and shall establish such periods so as to ensure that the state will maintain its eligibility, or establish eligibility, to obtain incentive grants or any other federal funding.)~~

(2)(a) A person licensed under this chapter whose driver's license is suspended administratively due to failure to appear or pay a traffic ticket under RCW 46.20.289; a violation of the financial responsibility laws under chapter 46.29 RCW; or for multiple violations within a specified period of time under RCW 46.20.291, may apply to the department for an occupational driver's license.

(b) If the suspension is for failure to respond, pay, or comply with a notice of traffic infraction or conviction, the applicant must enter into a payment plan with the court.

(c) An occupational driver's license issued to an applicant described in (a) of this subsection shall be valid for the period of the suspension or revocation.

(3) An applicant for an occupational or temporary restricted driver's license who qualifies under subsection (1) or (2) of this section is eligible to receive such license only if:

(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and

(b) The applicant demonstrates that it is necessary for him or her to operate a motor vehicle because he or she:

(i) Is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle;

(ii) Is undergoing continuing health care or providing continuing care to another who is dependent upon the applicant;

(iii) Is enrolled in an educational institution and pursuing a course of study leading to a diploma, degree, or other certification of successful educational completion;

(iv) Is undergoing substance abuse treatment or is participating in meetings of a twelve-step group such as Alcoholics Anonymous

that requires the petitioner to drive to or from the treatment or meetings;

(v) Is fulfilling court-ordered community service responsibilities;

(vi) Is in a program that assists persons who are enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to become gainfully employed and the program requires a driver's license;

(vii) Is in an apprenticeship, on-the-job training, or welfare-to-work program; or

(viii) Presents evidence that he or she has applied for a position in an apprenticeship or on-the-job training program for which a driver's license is required to begin the program, provided that a license granted under this provision shall be in effect for no longer than fourteen days; and

(c) The applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW; and

(d) Upon receipt of evidence that a holder of an occupational driver's license granted under this subsection is no longer enrolled in an apprenticeship or on-the-job training program, the director shall give written notice by first-class mail to the driver that the occupational driver's license shall be canceled. The effective date of cancellation shall be fifteen days from the date of mailing the notice. If at any time before the cancellation goes into effect the driver submits evidence of continued enrollment in the program, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new occupational driver's license upon submittal of evidence of enrollment in another program that meets the criteria set forth in this subsection; and

(e) The department shall not issue an occupational driver's license under (b)(iv) of this subsection if the applicant is able to receive transit services sufficient to allow for the applicant's participation in the programs referenced under (b)(iv) of this subsection.

(4) A person aggrieved by the decision of the department on the application for an occupational or temporary restricted driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an occupational or temporary restricted driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of a separate offense that under chapter 46.20 RCW would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title.

**Sec. 7.** RCW 46.20.400 and 2004 c 95 s 9 are each amended to read as follows:

If an occupational ~~((or))~~ driver's license, a temporary restricted driver's license, or an ignition interlock driver's license is issued and is not revoked during the period for which issued the licensee may obtain a new driver's license at the end of such period, but no new driver's license may be issued to such person until he or she surrenders his or her occupational ~~((or))~~ driver's license, temporary restricted driver's license, or ignition interlock driver's license and his or her copy of the order, and the director is satisfied that the person complies with all other provisions of law relative to the issuance of a driver's license.

**Sec. 8.** RCW 46.20.410 and 2004 c 95 s 10 are each amended to read as follows:

Any person convicted for violation of any restriction of an occupational ~~((or))~~ driver's license, a temporary restricted driver's

license, or an ignition interlock driver's license shall in addition to the immediate revocation of such license and any other penalties provided by law be fined not less than fifty nor more than two hundred dollars or imprisoned for not more than six months or both such fine and imprisonment.

**NEW SECTION. Sec. 9.** A new section is added to chapter 46.20 RCW to read as follows:

(1)(a) Beginning January 1, 2009, any person licensed under this chapter who is convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle in violation of RCW 46.61.502 or 46.61.504, other than vehicular homicide or vehicular assault, or who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, may submit to the department an application for an ignition interlock driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is eligible to receive the license, may issue an ignition interlock driver's license.

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.

(c) An applicant under this subsection shall provide proof to the satisfaction of the department that a functioning ignition interlock device has been installed on all vehicles operated by the person.

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. The installation of an ignition interlock device is not necessary on vehicles owned by a person's employer and driven as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer during working hours.

(ii) Subject to any periodic renewal requirements established by the department under this section and subject to any applicable compliance requirements under this chapter or other law, an ignition interlock driver's license granted upon a suspension or revocation under RCW 46.61.5055 or 46.20.3101 extends through the remaining portion of any concurrent or consecutive suspension or revocation that may be imposed as the result of administrative action and criminal conviction arising out of the same incident.

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055.

(2) An applicant for an ignition interlock driver's license who qualifies under subsection (1) of this section is eligible to receive a license only if:

(a) Within seven years immediately preceding the date of the offense that gave rise to the present conviction or incident, the applicant has not committed vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522; and

(b) The applicant files satisfactory proof of financial responsibility under chapter 46.29 RCW.

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles

operated by the driver, the director shall give written notice by first-class mail to the driver that the ignition interlock driver's license shall be canceled. The effective date of cancellation shall be fifteen days from the date of mailing the notice. If at any time before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

(4) A person aggrieved by the decision of the department on the application for an ignition interlock driver's license may request a hearing as provided by rule of the department.

(5) The director shall cancel an ignition interlock driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of a separate offense that under this chapter would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title.

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty-dollar fee to the department. (b) The department shall deposit the proceeds of the twenty-dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

(7) The department shall adopt rules to implement ignition interlock licensing. The department shall consult with the administrative office of the courts, the state patrol, the Washington association of sheriffs and police chiefs, ignition interlock companies, and any other organization or entity the department deems appropriate.

**NEW SECTION. Sec. 10.** A new section is added to chapter 46.20 RCW to read as follows:

(1) The ignition interlock device revolving account program is created within the department to assist in covering the monetary costs of installing, removing, and leasing an ignition interlock device, and applicable licensing, for indigent persons who are required under section 9 of this act and RCW 46.61.5055 to install an ignition interlock device in all vehicles owned or operated by the person. For purposes of this subsection, "indigent" has the same meaning as in RCW 10.101.010, as determined by the department.

(2) A pilot program is created within the ignition interlock device revolving account program for the purpose of monitoring compliance by persons required to use ignition interlock devices and by ignition interlock companies and vendors.

(3) The department, the state patrol, and the Washington traffic safety commission shall coordinate to establish a compliance pilot program that will target at least one county from eastern Washington and one county from western Washington, as determined by the department, state patrol, and Washington traffic safety commission.

(4) At a minimum, the compliance pilot program shall:

(a) Review the number of ignition interlock devices that are required to be installed in the targeted county and the number of ignition interlock devices actually installed;

(b) Work to identify those persons who are not complying with ignition interlock requirements or are repeatedly violating ignition interlock requirements; and

(c) Identify ways to track compliance and reduce noncompliance.

(5) As part of monitoring compliance, the Washington traffic safety commission shall also track recidivism for violations of RCW 46.61.502 and 46.61.504 by persons required to have an ignition interlock driver's license under section 9 of this act.

**Sec. 11.** RCW 46.63.020 and 2005 c 431 s 2, 2005 c 323 s 3, and 2005 c 183 s 10 are each reenacted and amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration and markings indicating that a vehicle has been destroyed or declared a total loss;

(6) RCW 46.16.010 relating to the nonpayment of taxes and fees by failure to register a vehicle and falsifying residency when registering a motor vehicle;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381(2) relating to knowingly providing false information in conjunction with an application for a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.005 relating to driving without a valid driver's license;

(11) RCW 46.20.091 relating to false statements regarding a driver's license or instruction permit;

(12) RCW 46.20.0921 relating to the unlawful possession and use of a driver's license;

(13) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(14) RCW 46.20.345 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.410 relating to the violation of restrictions of an occupational ~~(or)~~ driver's license, temporary restricted driver's license, or ignition interlock driver's license;

(16) RCW 46.20.740 relating to operation of a motor vehicle without an ignition interlock device in violation of a license notation that the device is required;

(17) RCW 46.20.750 relating to ~~((assisting another person to start a vehicle equipped with))~~ circumventing an ignition interlock device;

(18) RCW 46.25.170 relating to commercial driver's licenses;

(19) Chapter 46.29 RCW relating to financial responsibility;

(20) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(21) RCW 46.37.435 relating to wrongful installation of sunscreening material;

(22) RCW 46.37.650 relating to the sale, resale, distribution, or installation of a previously deployed air bag;

(23) RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

~~((24))~~ (24) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

~~((24))~~ (25) RCW 46.48.175 relating to the transportation of dangerous articles;

~~((25))~~ (26) RCW 46.52.010 relating to duty on striking an unattended car or other property;

~~((26))~~ (27) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

~~((27))~~ (28) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;

~~((28))~~ (29) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;

~~((29))~~ (30) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

~~((30))~~ (31) RCW 46.55.035 relating to prohibited practices by tow truck operators;

~~((31))~~ (32) RCW 46.55.300 relating to vehicle immobilization;

(33) RCW 46.61.015 relating to obedience to police officers, flaggers, or firefighters;

~~((32))~~ (34) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

~~((33))~~ (35) RCW 46.61.022 relating to failure to stop and give identification to an officer;

~~((34))~~ (36) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

~~((35))~~ (37) RCW 46.61.500 relating to reckless driving;

~~((36))~~ (38) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

~~((37))~~ (39) RCW 46.61.503 relating to a person under age twenty-one driving a motor vehicle after consuming alcohol;

~~((38))~~ (40) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

~~((39))~~ (41) RCW 46.61.522 relating to vehicular assault;

~~((40))~~ (42) RCW 46.61.5249 relating to first degree negligent driving;

~~((41))~~ (43) RCW 46.61.527(4) relating to reckless endangerment of roadway workers;

~~((42))~~ (44) RCW 46.61.530 relating to racing of vehicles on highways;

~~((43))~~ (45) RCW 46.61.655(7) (a) and (b) relating to failure to secure a load;

~~((44))~~ (46) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

~~((45))~~ (47) RCW 46.61.740 relating to theft of motor vehicle fuel;

~~((46))~~ RCW 46.37.671 through 46.37.675 relating to signal preemption devices;

~~((47))~~ (48) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((48))~~ (49) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((49))~~ (50) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((50))~~ (51) RCW 46.68.010 relating to false statements made to obtain a refund;

~~((51))~~ (52) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

~~((52))~~ (53) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((53))~~ (54) RCW 46.72A.060 relating to limousine carrier insurance;

~~((54))~~ (55) RCW 46.72A.070 relating to operation of a limousine without a vehicle certificate;

~~((55))~~ (56) RCW 46.72A.080 relating to false advertising by a limousine carrier;

~~((56))~~ (57) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((57))~~ (58) Chapter 46.82 RCW relating to driver's training schools;

~~((58))~~ (59) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

~~((59))~~ (60) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

**Sec. 12.** RCW 46.20.720 and 2004 c 95 s 11 are each amended to read as follows:

(1) The court may order that after a period of suspension, revocation, or denial of driving privileges, and for up to as long as the court has jurisdiction, any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle may drive only a motor vehicle equipped with a functioning ignition interlock. The court shall establish a specific calibration setting at which the interlock will prevent the vehicle from being started. The court shall also establish the period of time for which interlock use will be required.

(2) Under RCW 46.61.5055, 10.05.020, or section 18 of this act, the court shall order any person convicted of an alcohol-related violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance or participating in a deferred prosecution program under RCW 10.05.020 or section 18 of this act for an alcohol-related violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to apply for an ignition interlock driver's license from the department under section 9 of this act and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(3) The department shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning ignition interlock device if the person is convicted of an alcohol-related violation of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance.

The department may waive the requirement for the use of such a device if it concludes that such devices are not reasonably available in the local area. The device is not necessary on vehicles owned by a person's employer and driven as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer

stating that the person's employment requires the person to operate a vehicle owned by the employer during working hours.

The ignition interlock device shall be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more. The period of time of the restriction will be as follows:

(a) For a person who has not previously been restricted under this section, a period of one year;

(b) For a person who has previously been restricted under (a) of this subsection, a period of five years;

(c) For a person who has previously been restricted under (b) of this subsection, a period of ten years.

**Sec. 13.** RCW 46.20.740 and 2004 c 95 s 12 are each amended to read as follows:

(1) The department shall attach or imprint a notation on the driving record of any person restricted under RCW 46.20.720 or 46.61.5055 stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock 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 seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an ignition interlock required under this section 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.

(2) It is a misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not so equipped.

**Sec. 14.** RCW 46.61.5055 and 2007 c 474 s 1 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 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))~~ shall be punished under chapter 9.94A RCW if: (a) The person has four or more prior offenses within ten years((:)); or ((who)) (b) the person has ever previously been convicted of: (i) A violation of RCW 46.61.520 committed while under the influence of intoxicating liquor or any drug ((or)); (ii) a violation of 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)); or (iii) an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection.

(5)(a) The court shall require any person convicted of an alcohol-related violation of RCW 46.61.502 or 46.61.504 to apply for an ignition interlock driver's license from the department under section 9 of this act and to have a functioning ignition interlock device installed on all motor vehicles operated by the person.

(b) The installation of an ignition interlock device is not necessary on vehicles owned by a person's employer and driven as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer during working hours.

(c) An ignition interlock device imposed under this section shall be calibrated to prevent a motor vehicle from being started when the breath sample provided has an alcohol concentration of 0.025 or more.

(d) The court may waive the requirement that a person obtain an ignition interlock driver's license and operate only vehicles equipped with a functioning ignition interlock device if the court makes a specific finding in writing that the devices are not reasonably available in the local area, that the person does not operate a vehicle, or the person is not eligible to receive an ignition interlock driver's license under section 9 of this act.

(e) When the requirement that a person obtain an ignition interlock driver's license and operate only vehicles equipped with a functioning ignition interlock device is waived by the court, the court shall order the person to submit to alcohol monitoring through an alcohol detection breathalyzer device, transdermal sensor device, or other technology designed to detect alcohol in a person's system. The person shall pay for the cost of the monitoring. The county or municipality where the penalty is being imposed shall determine the cost.

(f) The period of time for which ignition interlock use or alcohol monitoring is required will be as follows:

(i) For a person who has not previously been restricted under this section, a period of one year;

(ii) For a person who has previously been restricted under (f)(i) of this subsection, a period of five years;

(iii) For a person who has previously been restricted under (f)(ii) of this subsection, a period of ten years.

(6) 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.

~~((6))~~ (7) 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.

~~((7))~~ (8) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of RCW 46.61.5056.

~~((8))~~ (9) 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 ~~((8))~~ (9), the department shall refer to the driver's record maintained under RCW 46.52.120 when determining the existence of prior offenses.

~~((9))~~ (10) 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.

~~((10))~~ (11)(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.

~~((11))~~ (12) 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.

~~((12))~~ (13) 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).

~~((13))~~ (14) 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;

(b) "Within seven years" means that the arrest for a prior offense occurred within seven years of the arrest for the current offense; and

(c) "Within ten years" means that the arrest for a prior offense occurred within ten years of the arrest for the current offense.

**Sec. 15.** RCW 10.05.010 and 2002 c 219 s 6 are each amended to read as follows:

(1) In a court of limited jurisdiction a person charged with a misdemeanor or gross misdemeanor may petition the court to be considered for a deferred prosecution program. The petition shall be filed with the court at least seven days before the date set for trial but, upon a written motion and affidavit establishing good cause for the delay and failure to comply with this section, the court may waive this requirement subject to the defendant's reimbursement to the court of the witness fees and expenses due for subpoenaed witnesses who have appeared on the date set for trial.

(2) A person charged with a traffic infraction, misdemeanor, or gross misdemeanor under Title 46 RCW shall not be eligible for a deferred prosecution program unless the court makes specific findings pursuant to RCW 10.05.020 or section 18 of this act. Such person shall not be eligible for a deferred prosecution program more than once; and cannot receive a deferred prosecution under both RCW 10.05.020 and section 18 of this act. Separate offenses committed more than seven days apart may not be consolidated in a single program.

(3) A person charged with a misdemeanor or a gross misdemeanor under chapter 9A.42 RCW shall not be eligible for a deferred prosecution program unless the court makes specific findings pursuant to RCW 10.05.020. Such person shall not be eligible for a deferred prosecution program more than once.

**Sec. 16.** RCW 10.05.020 and 2002 c 219 s 7 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section or section 18 of this act, the petitioner shall allege under oath in the petition that the wrongful conduct charged is the result of or caused by alcoholism, drug addiction, or mental problems for which the person is in need of treatment and unless treated the probability of future recurrence is great, along with a statement that the person agrees to pay the cost of a diagnosis and treatment of the alleged problem or problems if financially able to do so. The petition shall also contain a case history and written assessment prepared by an approved alcoholism treatment program as designated in chapter 70.96A RCW if the petition alleges alcoholism, an approved drug program as designated in chapter 71.24 RCW if the petition alleges drug addiction, or by an approved mental health center if the petition alleges a mental problem.

(2) In the case of a petitioner charged with a misdemeanor or gross misdemeanor under chapter 9A.42 RCW, the petitioner shall allege under oath in the petition that the petitioner is the natural or adoptive parent of the alleged victim; that the wrongful conduct charged is the result of parenting problems for which the petitioner is in need of services; that the petitioner is in need of child welfare services under chapter 74.13 RCW to improve his or her parenting skills in order to better provide his or her child or children with the basic necessities of life; that the petitioner wants to correct his or her conduct to reduce the likelihood of harm to his or her minor children; that in the absence of child welfare services the petitioner may be unable to reduce the likelihood of harm to his or her minor children; and that the petitioner has cooperated with the department of social and health services to develop a plan to receive appropriate child welfare services; along with a statement that the person agrees to pay the cost of the services if he or she is financially able to do so. The petition shall also contain a case history and a written service plan from the department of social and health services.

(3) Before entry of an order deferring prosecution, a petitioner shall be advised of his or her rights as an accused and execute, as a condition of receiving treatment, a statement that contains: (a) An acknowledgment of his or her rights; (b) an acknowledgment and waiver of the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; (c) a stipulation to the admissibility and sufficiency of the facts contained in the written police report; and (d) an acknowledgment that the statement will be entered and used to support a finding of guilty if the court finds cause to revoke the order granting deferred prosecution. The petitioner shall also be advised that he or she may, if he or she proceeds to trial and is found guilty, be allowed to seek suspension of some or all of the fines and incarceration that may be ordered upon the condition that he or she seek treatment and, further, that he or she may seek treatment from public and private agencies at any time without regard to whether or not he or she is found guilty of the offense charged. He or she shall also be advised that the court will not accept a petition for deferred prosecution from a person who: (i) Sincerely believes that he or she is innocent of the charges ~~((or))~~; (ii) sincerely believes that he or she does not, in fact, suffer from alcoholism, drug addiction, or mental problems, unless the petition for deferred prosecution is under section 18 of this act; or (iii) in the case of a petitioner charged under chapter 9A.42 RCW, sincerely believes that he or she does not need child welfare services.

(4) Before entering an order deferring prosecution, the court shall make specific findings that: (a) The petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the

written police report; (b) the petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution; (c) the petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; and (d) the petitioner's statements were made knowingly and voluntarily. Such findings shall be included in the order granting deferred prosecution.

**Sec. 17.** RCW 10.05.090 and 1997 c 229 s 1 are each amended to read as follows:

If a petitioner, who has been accepted for a deferred prosecution, fails or neglects to carry out and fulfill any term or condition of the petitioner's treatment plan or any term or condition imposed in connection with the installation of an interlock or other device under RCW 46.20.720 or section 9 of this act, the facility, center, institution, or agency administering the treatment or the entity administering the use of the device, shall immediately report such breach to the court, the prosecutor, and the petitioner or petitioner's attorney of record, together with its recommendation. The court upon receiving such a report shall hold a hearing to determine whether the petitioner should be removed from the deferred prosecution program. At the hearing, evidence shall be taken of the petitioner's alleged failure to comply with the treatment plan or device installation and the petitioner shall have the right to present evidence on his or her own behalf. The court shall either order that the petitioner continue on the treatment plan or be removed from deferred prosecution. If the petitioner's noncompliance is based on a violation of a term or condition imposed in connection with the installation of an ignition interlock device under section 9 of this act, the court shall either order that the petitioner comply with the term or condition or be removed from deferred prosecution. If removed from deferred prosecution, the court shall enter judgment pursuant to RCW 10.05.020 and, if the charge for which the deferred prosecution was granted was a misdemeanor or gross misdemeanor under Title 46 RCW, shall notify the department of licensing of the removal and entry of judgment.

**NEW SECTION. Sec. 18.** A new section is added to chapter 10.05 RCW to read as follows:

(1) A person charged with a misdemeanor or gross misdemeanor under RCW 46.61.502 or 46.61.504 who has had no prior offenses as defined in RCW 46.61.5055 and has been assessed pursuant to subsection (3) of this section shall be eligible for a one-time deferred prosecution program.

(2) Before entering an order deferring prosecution under this section, the court shall make a specific finding that the petitioner has no prior offenses as defined in RCW 46.61.5055 and has been assessed by a certified chemical dependency counselor and a licensed mental health professional, and found not to need treatment for alcoholism, drug addiction, or mental problems. As a condition of granting a deferral prosecution petition, the court shall order the petitioner to satisfy the conditions in RCW 10.05.140 and shall order the petitioner to apply for an ignition interlock driver's license from the department of licensing and have a functioning ignition interlock device installed on all motor vehicles operated by the person. The required period of use of the ignition interlock device shall be one year. The court may order supervision of the petitioner during the period of deferral pursuant to RCW 10.05.170.

(3) A petitioner seeking a deferral of prosecution under this section shall undergo an assessment by a certified chemical

dependency counselor and a licensed mental health professional to determine whether the petitioner is or is not in need of treatment for alcoholism, drug addiction, or mental problems.

**Sec. 19.** RCW 10.05.160 and 1999 c 143 s 44 are each amended to read as follows:

The prosecutor may appeal an order granting deferred prosecution on any or all of the following grounds:

- (1) Prior deferred prosecution has been granted to the defendant;
- (2) Failure of the court to obtain proof of insurance or a treatment plan conforming to the requirements of this chapter;
- (3) Failure of the court to comply with the requirements of RCW 10.05.100;
- (4) Failure of the evaluation facility to provide the information required in RCW 10.05.040 and 10.05.050, if the defendant has been referred to the facility for treatment. If an appeal on such basis is successful, the trial court may consider the use of another treatment program;
- (5) Failure of the court to order the installation of an ignition interlock or other device under RCW 46.20.720 or section 9 of this act.

**Sec. 20.** RCW 46.61.502 and 2006 c 73 s 1 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 ten years as defined in RCW 46.61.5055; or (b) the person has ever previously been convicted of (i) vehicular homicide while under the influence of intoxicating

liquor or any drug, RCW 46.61.520(1)(a), ~~((or))~~ (ii) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or (iii) an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection.

**Sec. 21.** RCW 46.61.504 and 2006 c 73 s 2 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 ten years as defined in RCW 46.61.5055; or (b) the person has ever previously been convicted of (i) vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), ~~((or))~~ (ii) vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or (iii) an out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection.

NEW SECTION. **Sec. 22.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2008, in the omnibus transportation appropriations act, this act is null and void.

**NEW SECTION. Sec. 23.** Sections 2, 4 through 8, and 11 through 14 of this act take effect January 1, 2009."

On page 1, line 2 of the title, after "drugs;" strike the remainder of the title and insert "amending RCW 46.20.342, 46.20.380, 46.20.391, 46.20.400, 46.20.410, 46.20.720, 46.20.740, 46.61.5055, 10.05.010, 10.05.020, 10.05.090, 10.05.160, 46.61.502, and 46.61.504; reenacting and amending RCW 46.20.308 and 46.63.020; adding a new section to chapter 46.04 RCW; adding a new section to chapter 46.68 RCW; adding new sections to chapter 46.20 RCW; adding a new section to chapter 10.05 RCW; creating a new section; and providing an effective date."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3254 and advanced the bill as amended by the Senate to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Goodman and Pearson spoke in favor of the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 3254, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 3254, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 94, Nays - 0, Absent - 0, Excused - 4.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hinkle, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Kretz, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, Newhouse, O'Brien, Orcutt, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 94.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3254, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### RECONSIDERATION

There being no objection, the House immediately reconsidered the vote by which ENGROSSED HOUSE BILL NO. 2476 as amended by the Senate, passed the House.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 2476, as amended by the Senate, on reconsideration.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 2476, as amended by the Senate, on reconsideration, and the bill passed the House by the following vote: Yeas - 62, Nays - 32, Absent - 0, Excused - 4.

Voting yea: Representatives Appleton, Barlow, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunn, Dunshee, Eddy, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Liias, Linville, Loomis, McCoy, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Sullivan, Upthegrove, Van De Wege, Wallace, Wood and Mr. Speaker - 62.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Blake, Chandler, Condotta, Crouse, DeBolt, Ericksen, Hankins, Herrera, Hinkle, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Schmick, Smith, Sump, Takko, Walsh and Warnick - 32.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

ENGROSSED HOUSE BILL NO. 2476, on reconsideration, having received the necessary constitutional majority, was declared passed.

There being no objection, the House reverted to the sixth order of business.

### SECOND READING

**HOUSE BILL NO. 3381, By Representative Sommers**

**Relating to fees to implement programs that protect and improve Washington's health, safety, education, employees, and consumers.**

The bill was read the second time. There being no objection, Substitute House Bill No. 3381 was not substituted for House Bill No. 3381.

Representative Kessler moved the adoption of amendment (1541):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** To protect taxpayers, many state programs require the costs of licensing, registration, certification, and related government services to be borne by the profession or industry that uses the services, rather than by the taxpaying public as a whole. State standards that govern the professional duties of these industries are intended to protect the general public by safeguarding health, safety, employees, and consumers. The legislative approval of the fees and fee increases in this act is intended to ensure that the general public is not assessed these costs while also providing adequate funding to statutory programs that safeguard and improve Washington's health, safety, employees, and consumers.

**Sec. 2.** RCW 39.12.070 and 2006 c 230 s 1 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES--PREVAILING WAGE--CERTIFICATION OF AFFIDAVITS. The department of labor and industries may charge fees to awarding agencies on public works for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid. The department may also charge fees to persons or organizations requesting the arbitration of disputes under RCW 39.12.060. The amount of the fees shall be established by rules adopted by the department under the procedures in the administrative procedure act, chapter 34.05 RCW. The fees shall apply to all approvals, certifications, and arbitration requests made after the effective date of the rules. All fees shall be deposited in the public works administration account. The department may refuse to arbitrate for contractors, subcontractors, persons, or organizations which have not paid the proper fees. The department may, if necessary, request the attorney general to take legal action to collect delinquent fees.

The department shall set the fees permitted by this section at a level that generates revenue that is as near as practicable to the amount of the appropriation to administer this chapter, including, but not limited to, the performance of adequate wage surveys, and to investigate and enforce all alleged violations of this chapter, including, but not limited to, incorrect statements of intent to pay prevailing wage, incorrect certificates of affidavits of wages paid, and wage claims, as provided for in this chapter and chapters 49.48 and 49.52 RCW. However, the fees charged for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid shall be ~~((no greater than twenty-five))~~ forty dollars.

NEW SECTION. **Sec. 3.** Section 2 of this act takes effect July 1, 2008.

**Sec. 4.** RCW 43.22.434 and 2005 c 274 s 296 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES--FACTORY ASSEMBLED STRUCTURES/MOBILE/MANUFACTURED HOMES. (1) The director or the director's authorized representative may conduct such inspections, investigations, and audits as may be necessary to adopt or enforce manufactured and mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, park trailer, factory built housing, and factory built commercial structure rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge may:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which manufactured and mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, park trailers, factory built housing, and factory built commercial structures are manufactured, stored, or held for sale;

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the national manufactured home construction and safety standards act of 1974. Each inspection shall be commenced and completed with reasonable promptness; and

(c) As requested by an owner of a conversion vending unit or medical unit, inspect an alteration.

(3) For purposes of determining compliance with this chapter's permitting requirements for alterations of mobile and manufactured homes, the department may audit the records of a contractor as defined in chapter 18.27 RCW or RCW 18.106.020(1) or an electrical contractor as defined in RCW 19.28.006 when the department has reason to believe that a violation of the permitting requirements has occurred. The department shall adopt rules implementing the auditing procedures. Information obtained from a contractor through an audit authorized by this subsection is confidential and not open to public inspection under chapter 42.56 RCW.

~~((a))~~ The department shall set a schedule of fees by rule which will cover the costs incurred by the department in the administration of RCW 43.22.335 through 43.22.490, and is hereby authorized to do so pursuant to RCW 43.135.055. The department may waive mobile/manufactured home alteration permit fees for indigent permit applicants.

~~((b)(i) Until April 1, 2009, subject to (a) of this subsection, the department may adopt by rule a temporary statewide fee schedule that decreases fees for mobile/manufactured home alteration permits and increases fees for factory-built housing and commercial structures plan review and inspection services.~~

~~—((ii) Effective April 1, 2009, the department must adopt a new fee schedule that is the same as the fee schedule that was in effect immediately prior to the temporary fee schedule authorized in (b)(i) of this subsection. However, the new fee schedule must be adjusted by the fiscal growth factors not applied during the period that the temporary fee schedule was in effect.))~~

**Sec. 5.** RCW 70.74.137 and 1988 c 198 s 12 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES--EXPLOSIVES. Every person applying for a purchaser's license, or renewal thereof, shall pay an annual license fee

of ~~((five))~~ twenty-five dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed ~~((fifteen))~~ one hundred dollars.

Said license fee shall accompany the application and shall be transmitted by the department to the state treasurer: PROVIDED, That if the applicant is denied a purchaser's license the license fee shall be returned to said applicant by registered mail.

**Sec. 6.** RCW 70.74.140 and 1988 c 198 s 13 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES--EXPLOSIVES. Every person engaging in the business of keeping or storing of explosives shall pay an annual license fee for each magazine maintained, to be graduated by the department of labor and industries according to the quantity kept or stored therein, of ~~((ten))~~ fifty dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed ~~((one))~~ four hundred dollars.

Said license fee shall accompany the application and shall be transmitted by the department to the state treasurer.

**Sec. 7.** RCW 70.74.142 and 1988 c 198 s 14 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES--EXPLOSIVES. Every person applying for a user's license, or renewal thereof, under this chapter shall pay an annual license fee of ~~((five))~~ fifty dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed ~~((fifteen))~~ two hundred dollars.

Said license fee shall accompany the application, and be ~~((turned over))~~ transmitted by the department to the state treasurer: PROVIDED, That if the applicant is denied a user's license the license fee shall be returned to said applicant by registered mail.

**Sec. 8.** RCW 70.74.144 and 1988 c 198 s 15 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES--EXPLOSIVES. Every person engaged in the business of manufacturing explosives shall pay an annual license fee of ~~((twenty-five))~~ fifty dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed ~~((fifty))~~ two hundred dollars.

Businesses licensed to manufacture explosives are not required to have a dealer's license, but must comply with all of the dealer requirements of this chapter when they sell explosives.

The license fee shall accompany the application and shall be transmitted by the department to the state treasurer.

**Sec. 9.** RCW 70.74.146 and 1988 c 198 s 16 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES--EXPLOSIVES. Every person engaged in the business of selling explosives shall pay an annual license fee of ~~((twenty-five))~~ fifty dollars. The director of labor and industries may adjust the amount of the license fee to reflect the administrative costs of the department. The fee shall not exceed ~~((fifty))~~ two hundred dollars.

Businesses licensed to sell explosives must comply with all of the dealer requirements of this chapter.

The license fee shall accompany the application and shall be transmitted by the department to the state treasurer.

**Sec. 10.** RCW 70.74.360 and 1988 c 198 s 3 are each amended to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES--EXPLOSIVES. (1) The director of labor and industries shall require, as a condition precedent to the original issuance or renewal of any explosive license, fingerprinting and criminal history record information checks of every applicant. In the case of a corporation, fingerprinting and criminal history record information checks shall be required for the management officials directly responsible for the operations where explosives are used if such persons have not previously had their fingerprints recorded with the department of labor and industries. In the case of a partnership, fingerprinting and criminal history record information checks shall be required of all general partners. Such fingerprints as are required by the department of labor and industries shall be submitted on forms provided by the department to the identification section of the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior convictions of the individuals fingerprinted. The Washington state patrol shall provide to the director of labor and industries such criminal record information as the director may request. The applicant shall give full cooperation to the department of labor and industries and shall assist the department of labor and industries in all aspects of the fingerprinting and criminal history record information check. The applicant ~~((may))~~ shall be required to pay ((\*) the current federal and state fee ((not to exceed twenty dollars to the agency that performs the fingerprinting and criminal history process)) for fingerprint-based criminal history background checks.

(2) The director of labor and industries shall not issue a license to manufacture, purchase, store, use, or deal with explosives to:

- (a) Any person under twenty-one years of age;
- (b) Any person whose license is suspended or whose license has been revoked, except as provided in RCW 70.74.370;
- (c) Any person who has been convicted in this state or elsewhere of a violent offense as defined in RCW 9.94A.030, perjury, false swearing, or bomb threats or a crime involving a schedule I or II controlled substance, or any other drug or alcohol related offense, unless such other drug or alcohol related offense does not reflect a drug or alcohol dependency. However, the director of labor and industries may issue a license if the person suffering a drug or alcohol related dependency is participating in or has completed an alcohol or drug recovery program acceptable to the department of labor and industries and has established control of their alcohol or drug dependency. The director of labor and industries shall require the applicant to provide proof of such participation and control; or
- (d) Any person who has previously been adjudged to be mentally ill or insane, or to be incompetent due to any mental disability or disease and who has not at the time of application been restored to competency.

(3) The director of labor and industries may establish reasonable licensing fees for the manufacture, dealing, purchase, use, and storage of explosives.

**NEW SECTION. Sec. 11.** A new section is added to chapter 70.74 RCW to read as follows:

DEPARTMENT OF LABOR AND INDUSTRIES--EXPLOSIVES. All funds collected by the department under RCW 70.74.137 through 70.74.146 and 70.74.360 shall be transferred to the state treasurer for deposit into the accident and medical aid funds under RCW 51.44.010 and 51.44.020.

**NEW SECTION. Sec. 12.** A new section is added to chapter 18.130 RCW to read as follows:

DEPARTMENT OF HEALTH--HEALTH PROFESSIONS BACKGROUND CHECKS. In accordance with RCW 43.135.055, to implement the background check activities conducted pursuant to RCW 18.130.--- (section 7 of Fourth Substitute House Bill No. 1103, health professions), the department may establish fees as necessary to recover the cost of these activities and, except as precluded by RCW 43.70.110, the department shall require applicants to submit the required fees along with other information required by the state patrol.

**NEW SECTION. Sec. 13.** A new section is added to chapter 18.130 RCW to read as follows:

DEPARTMENT OF HEALTH--HEALTH PROFESSIONS. In accordance with RCW 43.135.055, the department may annually increase application and renewal fees as necessary to recover the cost of implementing the administrative and disciplinary provisions of chapter . . ., Laws of 2008 (Fourth Substitute House Bill No. 1103)).

**NEW SECTION. Sec. 14.** A new section is added to chapter 18.84 RCW to read as follows:

DEPARTMENT OF HEALTH--RADIOLOGY ASSISTANTS. In accordance with RCW 43.135.055, the department may establish application, certification, and renewal fees as necessary to recover the cost of implementing chapter . . ., Laws of 2008 (Substitute House Bill No. 6439, radiology assistants).

**Sec. 15.** RCW 15.58.070 and 2002 c 274 s 3 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE--PESTICIDE FEES. (1) All registrations issued by the department expire December 31st of the following year except that registrations issued by the department to a registrant who is applying to register an additional pesticide during the second year of the registrant's registration period shall expire December 31st of that year.

(2) An application for registration ~~((shall))~~ must be accompanied by a fee of ~~((two))~~ three hundred ninety dollars for each pesticide, except that a registrant who is applying to register an additional pesticide during the year the registrant's registration expires shall pay a fee of one hundred ~~((forty-five))~~ ninety-five dollars for each additional pesticide.

(3) Fees ~~((shall))~~ must be deposited in the agricultural local fund to support the activities of the pesticide program within the department.

(4) Any registration approved by the director and in effect on the last day of the registration period, for which a renewal application has been made and the proper fee paid, continues in full force and effect until the director notifies the applicant that the registration has been renewed, or otherwise denied in accord with the provision of RCW 15.58.110.

**Sec. 16.** RCW 15.58.180 and 1997 c 242 s 4 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE--PESTICIDE FEES. (1) Except as provided in subsections (4) and (5) of this section, it is

unlawful for any person to act in the capacity of a pesticide dealer or advertise as or assume to act as a pesticide dealer without first having obtained an annual license from the director. The license ~~((shall))~~ expires on the master license expiration date. A license is required for each location or outlet located within this state from which pesticides are distributed. A manufacturer, registrant, or distributor who has no pesticide dealer outlet licensed within this state and who distributes ~~((such))~~ pesticides directly into this state ~~((shall))~~ must obtain a pesticide dealer license for his or her principal out-of-state location or outlet, but such a licensed out-of-state pesticide dealer is exempt from the pesticide dealer manager requirements.

(2) Application for a license ~~((shall))~~ must be accompanied by a fee of ~~((fifty))~~ sixty-seven dollars and ~~((shall))~~ must be made through the master license system and ~~((shall))~~ must include the full name of the person applying for the license and the name of the individual within the state designated as the pesticide dealer manager. If the applicant is a partnership, association, corporation, or organized group of persons, the full name of each member of the firm or partnership or the names of the officers of the association or corporation ~~((shall))~~ must be given on the application. The application ~~((shall further))~~ must state the principal business address of the applicant in the state and elsewhere, the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the director.

(3) It is unlawful for any licensed dealer outlet to operate without a pesticide dealer manager who has a license of qualification. ~~((The department shall be notified forthwith of any change in the pesticide dealer manager designee during the licensing period.))~~

(4) This section does not apply to (a) a licensed pesticide applicator who sells pesticides only as an integral part of the applicator's pesticide application service when ~~((such))~~ pesticides are dispensed only through apparatuses used for ~~((such))~~ pesticide application, or (b) any federal, state, county, or municipal agency that provides pesticides only for its own programs.

(5) A user of a pesticide may distribute a properly labeled pesticide to another user who is legally entitled to use that pesticide without obtaining a pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter 70.105 RCW.

**Sec. 17.** RCW 15.58.200 and 1997 c 242 s 5 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE--PESTICIDE FEES. The director shall require each pesticide dealer manager to demonstrate to the director knowledge of pesticide laws and rules; pesticide hazards; and the safe distribution, use and application, and disposal of pesticides by satisfactorily passing a written examination after which the director shall issue a license of qualification. Application for a license ~~((shall))~~ must be accompanied by a fee of ~~((twenty-five))~~ thirty-three dollars. The pesticide dealer manager license ~~((shall be an annual license expiring))~~ expires annually on a date set by rule by the director.

**Sec. 18.** RCW 15.58.205 and 2003 c 212 s 5 are each amended to read as follows:

(1) ~~((Except as provided in subsection (2) of this section;))~~ No individual may perform services as a structural pest inspector or advertise that they perform services of a structural pest inspector without obtaining a structural pest inspector license from the director. The license expires annually on a date set by rule by the director.

Application for a license must be on a form prescribed by the director and must be accompanied by a fee of ~~((forty-five))~~ sixty dollars.

(2) The following are exempt from the application fee requirement ~~((of subsection (1)))~~ of this section when acting within the authorities of their existing licenses issued under this chapter ~~((15.58))~~ or chapter 17.21 RCW: Licensed pest control consultants; licensed commercial pesticide applicators and operators; licensed private-commercial applicators; and licensed demonstration and research applicators.

(3) The following are exempt from the structural pest inspector licensing requirement: Individuals inspecting for damage caused by wood destroying organisms if the inspections are solely for the purpose of: (a) Repairing or making specific recommendations for the repair of the damage, or (b) assessing a monetary value for the structure inspected. Individuals performing wood destroying organism inspections that incorporate but are not limited to the activities described in (a) or (b) of this subsection are not exempt from the structural pest inspector licensing requirement.

(4) ~~((Persons holding a valid license to act as a structural pest inspector on July 1, 2003, are exempt from this requirement until expiration of that license.~~

~~—((5)))~~ A structural pest inspector license is not valid for conducting a complete wood destroying organism inspection unless the inspector owns or is employed by a business with a structural pest inspection company license.

**Sec. 19.** RCW 15.58.210 and 2003 c 212 s 4 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE--PESTICIDE FEES. (1) ~~((Except as provided in subsection (2) of this section,))~~ No individual may perform services as a pest control consultant without obtaining a license from the director. The license ~~((shall))~~ expires annually on a date set by rule by the director. Application for a license ~~((shall))~~ must be on a form prescribed by the director and ~~((shall))~~ must be accompanied by a fee of ~~((forty-five))~~ sixty dollars.

(2) The following are exempt from the licensing requirements of ~~((subsection (1) of))~~ this section when acting within the authorities of their existing licenses issued under chapter 17.21 RCW: Licensed commercial pesticide applicators and operators; licensed private-commercial applicators; and licensed demonstration and research applicators. The following are also exempt from the licensing requirements of ~~((subsection (1) of))~~ this section: Employees of federal, state, county, or municipal agencies when acting in their official governmental capacities; and pesticide dealer managers and employees working under the direct supervision of the pesticide dealer manager and only at a licensed pesticide dealer's outlet.

**Sec. 20.** RCW 15.58.220 and 1997 c 242 s 7 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE--PESTICIDE FEES. For the purpose of this section public pest control consultant means any individual who is employed by a governmental agency or unit to act as a pest control consultant ~~((as defined in RCW 15.58.030(28)))~~. No person ~~((shall))~~ may act as a public pest control consultant without first obtaining a license from the director. The license ~~((shall))~~ expires annually on a date set by rule by the director. Application for a license ~~((shall))~~ must be on a form prescribed by the director and ~~((shall))~~ must be accompanied by a fee of ~~((twenty-five))~~ thirty-three dollars. Federal and state employees whose principal responsibilities are in pesticide research, the jurisdictional health officer or a duly authorized representative, public pest control consultants licensed and working in the health vector field, and

public operators licensed under RCW 17.21.220 shall be exempt from this licensing provision.

**Sec. 21.** RCW 17.21.070 and 1997 c 242 s 11 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE--PESTICIDE FEES. It ~~((shall be))~~ is unlawful for any person to engage in the business of applying pesticides to the land of another without a commercial pesticide applicator license. Application for a commercial applicator license ~~((shall))~~ must be accompanied by a fee of ~~((one hundred seventy))~~ two hundred fifteen dollars and in addition a fee of twenty-seven dollars for each apparatus, exclusive of one, used by the applicant in the application of pesticides~~((PROVIDED, That the provisions of this section shall not apply to any person employed only to operate any apparatus used for the application of any pesticide, and in which such person has no financial interest or other control over such apparatus other than its day to day mechanical operation for the purpose of applying any pesticide))~~.

**Sec. 22.** RCW 17.21.110 and 1997 c 242 s 12 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE--PESTICIDE FEES. It ~~((shall be))~~ is unlawful for any person to act as an employee of a commercial pesticide applicator and apply pesticides manually or as the operator directly in charge of any apparatus which is licensed or should be licensed under ~~((the provisions of))~~ this chapter for the application of any pesticide, without having obtained a commercial pesticide operator license from the director. The commercial pesticide operator license ~~((shall be))~~ is in addition to any other license or permit required by law for the operation or use of any such apparatus. Application for a commercial operator license ~~((shall))~~ must be accompanied by a fee of ~~((fifty))~~ sixty-seven dollars. ~~((The provisions of))~~ This section ~~((shall))~~ does not apply to any individual who is a licensed commercial pesticide applicator.

**Sec. 23.** RCW 17.21.122 and 1997 c 242 s 13 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE--PESTICIDE FEES. It ~~((shall be))~~ is unlawful for any person to act as a private-commercial pesticide applicator without having obtained a private-commercial pesticide applicator license from the director. Application for a private-commercial pesticide applicator license ~~((shall))~~ must be accompanied by a fee of ~~((twenty-five))~~ thirty-three dollars.

**Sec. 24.** RCW 17.21.126 and 2004 c 100 s 2 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE--PESTICIDE FEES. It is unlawful for any person to act as a private applicator, limited private applicator, or rancher private applicator without first complying with requirements determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the pesticide applicator or other persons, for each specific pesticide use.

(1) Certification standards to determine the individual's competency with respect to the use and handling of the pesticide or class of pesticides for which the private applicator, limited private applicator, or rancher private applicator is certified ~~((shall))~~ must be relative to hazards of the particular type of application, class of pesticides, or handling procedure. In determining these standards the director ~~((shall))~~ must take into consideration standards of the EPA and is authorized to adopt these standards by rule.

(2) Application for a private applicator or a limited private applicator license (~~(, or the renewal of such licenses under RCW 17.21.132(4), shall)~~ must be accompanied by a fee of ~~((twenty-five))~~ thirty-three dollars. Application for a rancher private applicator license (~~(, or renewal of such license under RCW 17.21.132(4), shall)~~ must be accompanied by a fee of ~~((seventy-five))~~ one hundred dollars. Individuals with a valid certified applicator license, pest control consultant license, or dealer manager license who qualify in the appropriate statewide or agricultural license categories are exempt from the private applicator, limited private applicator, or rancher private applicator fee requirements. However, licensed public pesticide operators, otherwise exempted from the public pesticide operator license fee requirement, are not also exempted from the fee requirements under this subsection.

**Sec. 25.** RCW 17.21.129 and 1997 c 242 s 15 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE--PESTICIDE FEES. Except as provided in RCW 17.21.203, it is unlawful for a person to use or supervise the use of any experimental use pesticide or any restricted use pesticide on small experimental plots for research purposes when no charge is made for the pesticide and its application without a demonstration and research applicator's license.

(1) Application for a demonstration and research license (~~(shall)~~ must be accompanied by a fee of ~~((twenty-five))~~ thirty three dollars.

(2) Persons licensed (~~(in accordance with)~~ under this section are exempt from the requirements of RCW 17.21.160, 17.21.170, and 17.21.180.

**Sec. 26.** RCW 17.21.220 and 1997 c 242 s 17 are each amended to read as follows:

DEPARTMENT OF AGRICULTURE--PESTICIDE FEES. (1) All state agencies, municipal corporations, and public utilities or any other governmental (~~(agency shall be))~~ agencies are subject to (~~(the provisions of))~~ this chapter and its rules (~~(adopted thereunder concerning the application of pesticides))~~).

(2) It (~~(shall be))~~ is unlawful for any employee of a state agency, municipal corporation, public utility, or any other government agency to use or to supervise the use of any restricted use pesticide, or any pesticide by means of an apparatus, without having obtained a public operator license from the director. Application for a public operator license (~~(shall)~~ must be accompanied by a fee of ~~((twenty-five))~~ thirty-three dollars. The fee (~~(shall))~~ does not apply to public operators licensed and working in the health vector field. The public operator license (~~(shall be))~~ is valid only when the operator is acting as an employee of a government agency.

(3) The jurisdictional health officer or his or her duly authorized representative is exempt from this licensing provision when applying pesticides that are not restricted use pesticides to control pests other than weeds.

(4) (~~(Such))~~ Agencies, municipal corporations, and public utilities ((shall be)) are subject to legal recourse by any person damaged by such application of any pesticide, and (~~(such))~~ action may be brought in the county where the damage or some part (~~(thereof))~~ of the damage occurred.

**NEW SECTION. Sec. 27.** DEPARTMENT OF AGRICULTURE--PESTICIDE FEES. Sections 15 through 26 of this act take effect January 1, 2009.

**NEW SECTION. Sec. 28.** A new section is added to chapter 16.36 RCW to read as follows:

DEPARTMENT OF AGRICULTURE--ANIMAL INSPECTION. (1) The director may adopt rules establishing fees for:

(a) The establishment and inspection of animal holding facilities authorized under this chapter;

(b) The inspection and monitoring of animals in authorized animal holding facilities; and

(c) Special inspections of animals or animal facilities that the director may provide at the request of the animal owner or interested persons.

(2) The fees shall, as closely as practicable, cover the cost of the service provided.

(3) All fees collected under this section shall be deposited in an account in the agricultural local fund and used to carry out the purposes of this chapter.

**NEW SECTION. Sec. 29.** A new section is added to chapter 18.185 RCW to read as follows:

DEPARTMENT OF LICENSING--BAIL BOND RECOVERY AGENTS. Pursuant to RCW 43.24.086 and 43.135.055, the department may increase fees as necessary to defray the cost of administering chapter ---, Laws of 2008 (Substitute House Bill No. 2759).

**NEW SECTION. Sec. 30.** DEPARTMENT OF FINANCIAL INSTITUTIONS. During fiscal years 2008 and 2009, the department of financial institutions may increase fees as follows:

(1) Credit union hourly fee for examination, investigation, and processing applications, by not more than 5.57% (FY 2009);

(2) Credit union quarterly asset assessment, by not more than 5.57% (FY 2009);

(3) Loan originator license amendment fee, to add a mortgage broker relationship, by not more than \$50 (FY 2008);

(4) Mortgage broker license amendment fee, change of designated broker, by not more than \$25 (FY 2008);

(5) Mortgage broker license application fee, main office location, by not more than \$1 (FY 2008);

(6) Banks exam hourly fees, by not more than 5.53% (FY 2008);

(7) Banks semi-annual assessment, by not more than 5.53% (FY 2008);

(8) Banks semi-annual assessment, interstate assets, by not more than \$183,321 (FY 2008).

**NEW SECTION. Sec. 31.** Captions used in this act are not any part of the law.

**NEW SECTION. Sec. 32.** Except for sections 2 and 15 through 26 of this act, 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.

Representative Chandler moved the adoption of amendment (1547) to amendment (1541):

On page 1, beginning on line 14 of the striking amendment, strike all of sections 2 and 3

Renumber remaining sections consecutively and correct internal references accordingly.

On page 16, line 13 of the striking amendment, after "sections" strike "2 and"

Representatives Chandler, Ross, Haler and Condotta spoke in favor of the adoption of the amendment to amendment (1541).

Representatives Conway and Kessler spoke against the adoption of the amendment to amendment (1541).

The amendment to amendment (1541) was not adopted.

Representative Kessler moved the adoption of amendment (1542) to amendment (1541):

On page 3, line 22 of the amendment, after "RCW 43.135.055." insert "The department shall use fees set under this subsection only for the administration of RCW 43.22.335 through 43.22.490."

Representative Kessler spoke in favor of the adoption of the amendment to amendment (1541).

The amendment to amendment (1541) was adopted.

Representative Chandler moved the adoption of amendment (1545) to amendment (1541):

On page 8, beginning on line 1 of the striking amendment, strike all of sections 15 through 27

Re-number remaining sections and correct internal references accordingly.

On page 16, line 13 of the striking amendment, after "for" strike "sections 2 and 15 through 26" and insert "section 2"

Representatives Chandler, Newhouse and Bailey spoke in favor of the adoption of the amendment to amendment (1541).

Representatives Grant and Kessler spoke against the adoption of the amendment to amendment (1541).

The amendment to amendment (1541) was not adopted.

Representative Chandler moved the adoption of amendment (1551) to amendment (1541):

On page 15, beginning on line 6 of the amendment, strike all of section 28

Re-number the remaining sections consecutively

Representatives Chandler, Hinkle, Kretz, Herrera and Ericksen spoke in favor of the adoption of the amendment to amendment (1541).

Representatives Haigh and Dunshee spoke against the adoption of the amendment to amendment (1541).

Division was demanded and the demand was sustained. The Speaker (Representative Morris presiding) divided the House. The result was 35 - YEAS; 59 -NAYS; 4 -EXCUSED. The amendment to amendment (1541) was not adopted.

Representative Kessler moved the adoption of amendment (1550) to amendment (1541):

On page 15, line 27 of the amendment, strike "(Substitute House Bill No. 2759)" and insert "(Engrossed Substitute Senate Bill 6347)"

Representative Kessler spoke in favor of the adoption of the amendment to amendment (1541).

The amendment to amendment (1541) was adopted.

Representative Alexander moved the adoption of amendment (1548) to amendment (1541):

On page 16, after line 10, insert the following:

**"NEW SECTION. Sec. 31.** No state board, commission, committee, department, educational institution, or other state agency shall impose a new fee or increase an existing fee during the 2007-09 biennium, unless the fee authorization or fee increase amount is explicitly provided in this act."

Re-number the remaining sections consecutively

Representatives Alexander, Walsh, Anderson and Ericksen spoke in favor of the adoption of the amendment to amendment (1541).

Representative Dunshee spoke against the adoption of the amendment to amendment (1541).

The amendment to amendment (1541) was not adopted.

Representative Bailey moved the adoption of amendment (1546) to amendment (1541):

On page 16, line 13 of the striking amendment, after "**Sec. 32.**" strike all material through "act is" on line 14 and insert "Sections 12 and 13 of this act are"

On page 16, line 16 of the striking amendment, after ", and" strike "takes" and insert "take"

Representatives Bailey and Orcutt spoke in favor of the adoption of the amendment to amendment (1541).

Representative Hunter spoke against the adoption of the amendment to amendment (1541).

The amendment to amendment (1541) was not adopted.

Amendment (1541) as amended was adopted. The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Sommers, Kessler and Campbell spoke in favor of passage of the bill.

Representatives Priest and Alexander spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 3381.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 3381 and the bill passed the House by the following vote: Yeas - 55, Nays - 39, Absent - 0, Excused - 4.

Voting yea: Representatives Appleton, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Flannigan, Fromhold, Goodman, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Liias, Linville, McCoy, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Sells, Simpson, Sommers, Springer, Sullivan, Takko, Upthegrove, Wood and Mr. Speaker - 55.

Voting nay: Representatives Ahern, Alexander, Anderson, Armstrong, Bailey, Chandler, Condotta, Crouse, DeBolt, Dunn, Ericksen, Grant, Green, Haler, Herrera, Hinkle, Hurst, Kelley, Kretz, Kristiansen, Loomis, McCune, McDonald, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Schmick, Seaquist, Smith, Sump, Van De Wege, Wallace, Walsh and Warnick - 39.

Excused: Representatives Eickmeyer, Hailey, Skinner and Williams - 4.

ENGROSSED HOUSE BILL NO. 3381, having received the necessary constitutional majority, was declared passed.

### STATEMENT FOR THE JOURNAL

I intended to vote NAY on Engrossed House Bill No. 3381.

DON BARLOW, 6<sup>th</sup> District

### MESSAGE FROM THE SENATE

March 10, 2008

Mr. Speaker:

The Senate has granted the request of the House for a Conference on ENGROSSED SUBSTITUTE HOUSE BILL

NO. 2878. The President has appointed the following members as Conferees: Senators Haugen, Marr and Swecker, and the same is herewith transmitted.

Thomas Hoemann, Secretary

The Speaker assumed the chair.

### SIGNED BY THE SPEAKER

The Speaker signed the following bills:

ENGROSSED HOUSE BILL NO. 1283  
 HOUSE BILL NO. 1391  
 HOUSE BILL NO. 1493  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1623  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 1865  
 HOUSE BILL NO. 2137  
 HOUSE BILL NO. 2283  
 SUBSTITUTE HOUSE BILL NO. 2431  
 HOUSE BILL NO. 2448  
 ENGROSSED HOUSE BILL NO. 2459  
 SUBSTITUTE HOUSE BILL NO. 2475  
 HOUSE BILL NO. 2499  
 HOUSE BILL NO. 2540  
 SUBSTITUTE HOUSE BILL NO. 2560  
 HOUSE BILL NO. 2564  
 SUBSTITUTE HOUSE BILL NO. 2575  
 SUBSTITUTE HOUSE BILL NO. 2580  
 HOUSE BILL NO. 2594  
 HOUSE BILL NO. 2650  
 SUBSTITUTE HOUSE BILL NO. 2661  
 HOUSE BILL NO. 2699  
 HOUSE BILL NO. 2700  
 SUBSTITUTE HOUSE BILL NO. 2727  
 HOUSE BILL NO. 2762  
 SUBSTITUTE HOUSE BILL NO. 2770  
 SUBSTITUTE HOUSE BILL NO. 2823  
 HOUSE BILL NO. 2825  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2847  
 SECOND SUBSTITUTE HOUSE BILL NO. 2870  
 SUBSTITUTE HOUSE BILL NO. 2879  
 SUBSTITUTE HOUSE BILL NO. 2885  
 SUBSTITUTE HOUSE BILL NO. 2893  
 SUBSTITUTE HOUSE BILL NO. 2902  
 SECOND SUBSTITUTE HOUSE BILL NO. 2903  
 HOUSE BILL NO. 2949  
 HOUSE BILL NO. 2955  
 SUBSTITUTE HOUSE BILL NO. 2959  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2996  
 HOUSE BILL NO. 2999  
 SUBSTITUTE HOUSE BILL NO. 3002  
 HOUSE BILL NO. 3011  
 HOUSE BILL NO. 3019  
 HOUSE BILL NO. 3024  
 SUBSTITUTE HOUSE BILL NO. 3071  
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 3122  
 SUBSTITUTE HOUSE BILL NO. 3126  
 HOUSE BILL NO. 3200  
 SUBSTITUTE HOUSE BILL NO. 3224  
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5179  
 SUBSTITUTE SENATE BILL NO. 5256  
 SUBSTITUTE SENATE BILL NO. 6060  
 SUBSTITUTE SENATE BILL NO. 6181  
 SENATE BILL NO. 6196  
 SENATE BILL NO. 6216  
 SUBSTITUTE SENATE BILL NO. 6224  
 SENATE BILL NO. 6237  
 SUBSTITUTE SENATE BILL NO. 6246

SENATE BILL NO. 6267  
SUBSTITUTE SENATE BILL NO. 6273  
SENATE BILL NO. 6275  
SUBSTITUTE SENATE BILL NO. 6343  
SENATE BILL NO. 6369  
SENATE BILL NO. 6398  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6437  
SENATE BILL NO. 6471  
ENGROSSED SUBSTITUTE SENATE BILL NO. 6532  
SUBSTITUTE SENATE BILL NO. 6572  
SENATE BILL NO. 6588  
ENGROSSED SENATE BILL NO. 6641  
ENGROSSED SENATE BILL NO. 6663  
SENATE BILL NO. 6677  
SUBSTITUTE SENATE BILL NO. 6710  
SENATE BILL NO. 6717  
SENATE BILL NO. 6740  
SUBSTITUTE SENATE BILL NO. 6791  
SENATE BILL NO. 6799  
SUBSTITUTE SENATE BILL NO. 6847  
SUBSTITUTE SENATE BILL NO. 6857  
SUBSTITUTE SENATE BILL NO. 6879  
SENATE BILL NO. 6885  
SENATE JOINT MEMORIAL NO. 8024  
SENATE JOINT MEMORIAL NO. 8028

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

There being no objection, the House adjourned until 10:00 a.m., March 11, 2008, the 58th Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk