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SIXTIETH LEGISLATURE - REGULAR SESSION

FIFTY NINTH DAY

House Chamber, Olympia, Wednesday, March 12, 2008

The House was called to order at 9:00 a.m. by the Speaker (Representative Moeller presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Pages Holley Hughes and Emma Hughes. The Speaker (Representative Moeller presiding) led the Chamber in the Pledge of Allegiance. Prayer was offered by Reverend Brian Wiele, River Ridge Covenant Church.

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

MESSAGES FROM THE SENATE

March 11, 2008

Mr. Speaker:

The Senate has passed:

THIRD SUBSTITUTE HOUSE BILL NO. 2053,
HOUSE BILL NO. 2460,
HOUSE BILL NO. 2542,
HOUSE BILL NO. 2544,
HOUSE BILL NO. 2678,
HOUSE BILL NO. 3188,
HOUSE BILL NO. 3375,

and the same are herewith transmitted.

Brad Hendrickson, Deputy Secretary

March 11, 2008

Mr. Speaker:

The Senate receded from its amendment to SUBSTITUTE HOUSE BILL NO. 3212 and passed the bill without said amendments, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

March 11, 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. 5378,
SENATE BILL NO. 6534,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6573,
SENATE BILL NO. 6950,

and the same are herewith transmitted.

Brad Hendrickson, Deputy Secretary

March 11, 2008
Mr. Speaker:

The Senate has passed:

SENATE BILL NO. 6628,
ENGROSSED SENATE BILL NO. 6629,
SECOND ENGROSSED SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8407,
and the same are herewith transmitted.

Brad Hendrickson, Deputy Secretary

March 11, 2008

Mr. Speaker:

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

SECOND SUBSTITUTE SENATE BILL NO. 6483,
SUBSTITUTE SENATE BILL NO. 6556,
SUBSTITUTE SENATE BILL NO. 6583,
SENATE BILL NO. 6722,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6809,
ENGROSSED SENATE BILL NO. 6818,
ENGROSSED SENATE BILL NO. 6821,
SENATE BILL NO. 6839,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2008

Mr. Speaker:

The President has signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1030,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1031,
FOURTH SUBSTITUTE HOUSE BILL NO. 1103,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1621,
SECOND ENGROSSED SUBSTITUTE HOUSE BILL NO. 1637,
THIRD SUBSTITUTE HOUSE BILL NO. 1741,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1773,
SUBSTITUTE HOUSE BILL NO. 2014,
SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2176,
SUBSTITUTE HOUSE BILL NO. 2472,
SUBSTITUTE HOUSE BILL NO. 2474,
HOUSE BILL NO. 2510,
SECOND SUBSTITUTE HOUSE BILL NO. 2514,
SUBSTITUTE HOUSE BILL NO. 2525,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2533,
SECOND SUBSTITUTE HOUSE BILL NO. 2537,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2549,
SECOND SUBSTITUTE HOUSE BILL NO. 2557,
SUBSTITUTE HOUSE BILL NO. 2582,
SUBSTITUTE HOUSE BILL NO. 2602,
SUBSTITUTE HOUSE BILL NO. 2639,

ENGROSSED HOUSE BILL NO. 2641,
 SUBSTITUTE HOUSE BILL NO. 2666,
 SECOND SUBSTITUTE HOUSE BILL NO. 2674,
 SECOND SUBSTITUTE HOUSE BILL NO. 2713,
 SUBSTITUTE HOUSE BILL NO. 2746,
 HOUSE BILL NO. 2774,
 SUBSTITUTE HOUSE BILL NO. 2779,
 HOUSE BILL NO. 2781,
 HOUSE BILL NO. 2786,
 HOUSE BILL NO. 2835,
 SUBSTITUTE HOUSE BILL NO. 2881,
 HOUSE BILL NO. 2887,
 SUBSTITUTE HOUSE BILL NO. 2963,
 HOUSE BILL NO. 3088,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 3096,
 SECOND SUBSTITUTE HOUSE BILL NO. 3129,
 ENGROSSED HOUSE BILL NO. 3142,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 3166,
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3186,
 SECOND SUBSTITUTE HOUSE BILL NO. 3274,
 SUBSTITUTE HOUSE BILL NO. 3283,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 11, 2008

Mr. Speaker:

The President has signed:

SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5100,
 SUBSTITUTE SENATE BILL NO. 5104,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5261,
 SUBSTITUTE SENATE BILL NO. 5524,
 SECOND SUBSTITUTE SENATE BILL NO. 5642,
 SUBSTITUTE SENATE BILL NO. 5651,
 SENATE BILL NO. 5868,
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6111,
 SENATE BILL NO. 6187,
 SENATE BILL NO. 6215,
 SENATE BILL NO. 6261,
 SENATE BILL NO. 6289,
 SUBSTITUTE SENATE BILL NO. 6297,
 SENATE BILL NO. 6310,
 SUBSTITUTE SENATE BILL NO. 6328,
 SENATE BILL NO. 6381,
 SUBSTITUTE SENATE BILL NO. 6400,
 SUBSTITUTE SENATE BILL NO. 6439,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6442,
 SENATE BILL NO. 6447,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6560,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6570,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6580,
 SUBSTITUTE SENATE BILL NO. 6596,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6606,
 SUBSTITUTE SENATE BILL NO. 6607,
 SECOND SUBSTITUTE SENATE BILL NO. 6626,
 SUBSTITUTE SENATE BILL NO. 6711,
 SECOND SUBSTITUTE SENATE BILL NO. 6732,
 SENATE BILL NO. 6739,
 SUBSTITUTE SENATE BILL NO. 6743,
 SUBSTITUTE SENATE BILL NO. 6751,
 SUBSTITUTE SENATE BILL NO. 6761,
 SUBSTITUTE SENATE BILL NO. 6804,
 SUBSTITUTE SENATE BILL NO. 6805,
 SUBSTITUTE SENATE BILL NO. 6807,
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6874,
 SUBSTITUTE SENATE BILL NO. 6932,
 SUBSTITUTE SENATE BILL NO. 6933,

SENATE BILL NO. 6941,
 and the same are herewith transmitted.

Brad Hendrickson, Deputy Secretary

INTRODUCTION & FIRST READING

HB 3388 by Representatives Ross, Hurst, O'Brien,
 Pearson, Newhouse, Ericksen, Warnick, Kirby,
 Haler, Hinkle, Roach, Priest, Kretz, Rodne,
 McCune, Walsh, Kristiansen, Orcutt, Schindler,
 Condotta, Goodman, Crouse, Chandler, Dunn,
 Bailey, Armstrong, and Ahern

Concerning the prevention of gang activity.

Referred to Committee on Public Safety & Emergency
 Preparedness.

2ESCR 8407 By Senate Committee on Labor, Commerce,
 Research & Development (originally
 sponsored by Senators Kohl-Welles,
 Clements, Keiser and Parlette)

Addressing liquor laws.

There being no objections, SECOND ENGROSSED
 SUBSTITUTE SENATE CONCURRENT RESOLUTION
 NO. 8407 was placed on the Second Reading calendar.

There being no objection, the bill listed on the day's
 introduction sheet under the fourth order of business was
 referred to the committee so designated.

MESSAGE FROM THE SENATE

March 11, 2008

Mr. Speaker:

The Senate has adopted the report of Conference
 Committee on ENGROSSED SUBSTITUTE HOUSE BILL
 NO. 2878, and has passed the bill as recommended by the
 Conference Committee, and the same is herewith transmitted.

Thomas Hoemann, Secretary

REPORT OF CONFERENCE COMMITTEE

March 10, 2008

Mr. Speaker:

We of your Conference Committee, to whom was referred
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2878,
 Making 2008 transportation supplemental appropriations, have
 had the same under consideration and we recommend that:

All previous amendments not be adopted and that the
 attached striking amendment (S-6122.3/08) be
 adopted:

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))
\$3,577,000
State Patrol Highway Account--State Appropriation. \$100,000
Puget Sound Ferry Operations Account--State Appropriation. \$100,000
TOTAL APPROPRIATION. ((\$3,154,000))
\$3,777,000

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.
(3) \$100,000 of the state patrol highway account--state appropriation is provided solely 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.
(4) The department shall make a recommendation to the transportation committees of the legislature by December 1, 2008, as to whether Washington state ferries marine employees should be covered under workman's compensation.
(5) \$400,000 of the motor vehicle account--state appropriation is provided solely for the continued maintenance and support of the transportation executive information system (TEIS).
(6) The office of financial management shall work collaboratively with the house of representatives and senate transportation committees to ensure that future budget proposals reflect criteria for performance excellence and earned value measures, and align with the goals and performance measures contained within the state transportation progress report.

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))
\$434,000

The appropriation in this section is subject to the following conditions and limitations: A maximum of \$22,000 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))
	<u>\$340,000</u>

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.

Sec. 107. 2007 c 518 s 107 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Motor Vehicle Account--State Appropriation.	((\$1,595,000))
	<u>\$1,195,000</u>

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

(1) (~~(\$800,000)~~) \$400,000 of the motor vehicle account--state appropriation is provided solely for the continued maintenance and support of the transportation executive information system (TEIS).

(2) \$795,000 of the motor vehicle account--state appropriation is provided solely for development of a new transportation capital budgeting system and transition of a copy of the transportation executive information system (TEIS) to LEAP. At a minimum, the new budgeting system development effort must provide comprehensive schematic diagrams of the current and proposed transportation capital budget process, information flows, and data exchanges; common, agreed-upon data definitions and business rules; detailed transportation capital budget data and system requirements; and a strategy for implementation, including associated costs and a timeframe.

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))
	<u>\$2,605,000</u>
Highway Safety Account--Federal Appropriation.	((\$15,880,000))
	<u>\$15,845,000</u>
School Zone Safety Account--State Appropriation.	((\$3,300,000))
	<u>\$3,376,000</u>
TOTAL APPROPRIATION.	((\$21,789,000))
	<u>\$21,826,000</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>\$900,000</u>
Motor Vehicle Account--State Appropriation.	((\$2,075,000))
	<u>\$2,058,000</u>
County Arterial Preservation Account--State Appropriation.	((\$1,399,000))
	<u>\$1,388,000</u>
TOTAL APPROPRIATION.	((\$4,381,000))
	<u>\$4,346,000</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>\$1,778,000</u>
Transportation Improvement Account--State Appropriation.....	((\$1,795,000))
	<u>\$1,780,000</u>
TOTAL APPROPRIATION.....	((\$3,588,000))
	<u>\$3,558,000</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>\$1,152,000</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>\$2,513,000</u>
Multimodal Transportation Account--State Appropriation.	\$550,000
TOTAL APPROPRIATION.....	((\$2,653,000))
	<u>\$3,063,000</u>

The appropriations in this section ~~(is)~~ 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 report ~~((the progress of))~~ on its tasks to the transportation committees of the legislature by December ~~((15, 2007))~~ 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) \$150,000 of the motor vehicle account--state appropriation is for the Puget Sound regional council to conduct a pilot program for multimodal concurrency analysis. This pilot program will analyze total trip needs for a regional growth center based on adopted land use plans, identify the number of trips which can be accommodated by planned roadway, transit service, and nonmotorized investments, and identify gaps for trips that cannot be served and strategies to fill those gaps. The purpose of this pilot is to demonstrate how this type of multimodal concurrency analysis can be used to broaden and strengthen local concurrency programs.

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

FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account--State Appropriation.	((\$2,276,000))
	<u>\$2,322,000</u>
Multimodal Transportation Account--State Appropriation.	\$112,000
TOTAL APPROPRIATION.	((\$2,388,000))
	<u>\$2,434,000</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 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.

(3) 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.

(4) Pursuant to RCW 43.135.055, during the 2007-09 fiscal biennium, the transportation commission shall periodically review, and, if necessary, modify the schedule of toll charges applicable to the Tacoma Narrows bridge, taking into consideration the recommendations of the citizen advisory committee created by RCW 47.46.091.

(5) \$205,000 of the motor vehicle account--state appropriation is provided solely for a study of potential revenue sources for the Washington state ferry system. The study must model and assess the revenue generating potentials of feasible alternative funding sources. The revenue forecasting models must be dynamic and ownership of these models must be retained by the commission. The commission shall develop revenue source recommendations that will generate revenue equal to or greater than the funding level identified by the ferries finance study of the joint transportation committee referenced in section 205 of this act, and shall report its recommendations to the transportation committees of the legislature by November 15, 2008.

(6) The transportation commission shall develop recommendations to reduce and control tolling operations costs. These recommendations shall be presented to the transportation committees of the state legislature by December 1, 2008. To this end, the commission shall generate benchmarks to evaluate program efficiencies. They shall also review and confirm data necessary to evaluate tolling operations. The department of transportation shall cooperate with the commission and provide documents and data to assist with this evaluation.

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.	((\$695,000))
	<u>\$691,000</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.	((\$225,445,000))
	<u>\$226,924,000</u>

State Patrol Highway Account--Federal Appropriation.	\$10,602,000
State Patrol Highway Account--Private/Local Appropriation.	\$410,000
TOTAL APPROPRIATION.	((\$236,457,000)) <u>\$237,936,000</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~~) 2007-2009 biennium, 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~~) when requested to do so by the respective county; however, the counties shall conduct traffic accident investigations on county roads ((to the counties by July 1, 2008)) beginning July 1, 2009.

(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. The Washington state patrol shall perform a study with a final report due to the legislative transportation committees by December 1, 2008, on the advantages and disadvantages of staffing the commercial vehicle enforcement section with commissioned officers instead of commercial vehicle enforcement officers.

(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.	((\$1,300,000)) <u>\$1,552,000</u>
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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.	((\$103,157,000)) <u>\$102,726,000</u>
State Patrol Highway Account--Private/Local Appropriation.	\$2,008,000
TOTAL APPROPRIATION.	((\$105,165,000)) <u>\$104,734,000</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.	(\$3,905,000)
	\$3,898,000
Wildlife Account--State Appropriation.	(\$843,000)
	\$830,000
Highway Safety Account--State Appropriation.	(\$141,953,000)
	\$145,444,000
Highway Safety Account--Federal Appropriation.	\$233,000
Motor Vehicle Account--State Appropriation.	(\$79,230,000)
	\$78,235,000
Motor Vehicle Account--Private/Local Appropriation.	\$1,372,000
Motor Vehicle Account--Federal Appropriation.	(\$117,000)
	\$1,354,000
Department of Licensing Services Account--State Appropriation.	(\$3,540,000)
	\$4,639,000
Washington State Patrol Highway Account--State Appropriation.	\$1,145,000
TOTAL APPROPRIATION.	(\$232,370,000)
	\$237,182,000

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)~~ (a) \$12,422,000 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).~~ (b) Of the amount provided in (a) of 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. Funds may be spent on educational campaigns only after the caseload for enhanced drivers' licenses and identicards falls below levels that can be reasonably processed by the department within the appropriation provided by this subsection. \$300,000 of the \$1,000,000 is for the department to partner with cross-border tourism businesses to create an educational campaign.

(c) Of the amount provided in (a) of this subsection, \$10,722,000 is provided solely for costs associated with providing enhanced driver's license processing at 14 licensing services offices.

(d) Of the amount provided in (a) of this subsection, \$700,000 is provided solely for costs associated with extending hours beyond current regular business hours at the 14 licensing service offices that provide enhanced driver's license processing services.

(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 for the department to prepare draft legislation that streamlines title and registration statutes to specifically address apparent conflicts, fee distribution, and other ~~((recommendations by the department))~~ relevant issues 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 the draft legislation 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 House Bill No. 3029 (secure vehicle licensing system). If Substitute House Bill No. 3029 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(10) \$200,000 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.

(11) \$417,000 of the highway safety account--state appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 3254 (ignition interlock drivers' license). If Engrossed Second Substitute House Bill No. 3254 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(12) \$100,000 of the department of licensing services account--state appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 2817 (contaminated vehicles). If Engrossed Second Substitute House Bill No. 2817 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 may 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.	((\$2,596,000))
	\$2,253,000
Motor Vehicle Account--State Appropriation.	((\$5,600,000))
	\$600,000
Tacoma Narrows Toll Bridge Account--State Appropriation.	((\$28,218,000))
	\$28,322,000
TOTAL APPROPRIATION.	((\$36,414,000))
	\$31,175,000

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.	((\$4,556,000))
	\$5,892,000
Motor Vehicle Account--State Appropriation.	((\$67,613,000))
	\$67,710,000
Motor Vehicle Account--Federal Appropriation.	\$1,096,000
Puget Sound Ferry Operations Account--State Appropriation.	((\$9,192,000))
	\$9,143,000
Multimodal Transportation Account--State Appropriation.	\$363,000
Transportation 2003 Account (Nickel Account)--State Appropriation.	((\$4,000,000))
	\$5,337,000
TOTAL APPROPRIATION.	((\$86,820,000))
	\$89,541,000

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

(1) The department shall consult with the office of financial management and the department of information services to 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.	((\$34,569,000))
	<u>\$33,982,000</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.	((\$6,889,000))
	<u>\$7,866,000</u>
Aeronautics Account--Federal Appropriation.	\$2,150,000
Multimodal Transportation Account--State Appropriation.	\$631,000
TOTAL APPROPRIATION.	((\$9,670,000))
	<u>\$10,647,000</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.	((\$50,446,000))
	<u>\$52,275,000</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.	((\$56,040,000))
	<u>\$57,869,000</u>

The appropriations in this section ~~(~~is~~)~~ are 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 must 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.	((\$1,151,000))
	<u>\$991,000</u>
Multimodal Transportation Account--State Appropriation.	\$300,000
TOTAL APPROPRIATION.	((\$1,451,000))
	<u>\$1,291,000</u>

The appropriations in this section (~~(is)~~) are 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.	((\$321,888,000))
	<u>\$331,342,000</u>
Motor Vehicle Account--Federal Appropriation.	((\$2,000,000))
	<u>\$5,000,000</u>
Motor Vehicle Account--Private/Local Appropriation.	\$5,797,000
TOTAL APPROPRIATION.	((\$329,685,000))
	<u>\$342,139,000</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) \$76,026,000 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.	((\$52,040,000))
	<u>\$51,340,000</u>
Motor Vehicle Account--Federal Appropriation.	\$2,050,000
Motor Vehicle Account--Private/Local Appropriation.	\$127,000
TOTAL APPROPRIATION.	((\$54,217,000))
	<u>\$53,517,000</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.	((\$28,215,000))
	<u>\$27,363,000</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.	((\$30,789,000))
	<u>\$29,937,000</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.	((\$30,698,000))
	<u>\$27,757,000</u>
Motor Vehicle Account--Federal Appropriation.	\$19,163,000
Multimodal Transportation Account--State Appropriation.	((\$1,029,000))
	<u>\$1,760,000</u>
Multimodal Transportation Account--Federal Appropriation.	\$2,809,000
Multimodal Transportation Account--Private/Local Appropriation.	\$100,000
TOTAL APPROPRIATION.	((\$53,799,000))
	<u>\$51,589,000</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~~))~~ \$800,000 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 as described in Engrossed Second Substitute House Bill No. 2815. If Engrossed Second Substitute House Bill No. 2815 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

(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.

(11) \$100,000 of the multimodal transportation account--state appropriation is provided solely to support the commuter rail study between eastern Snohomish county and eastern King county as defined in Substitute House Bill No. 3224. Funds are provided to the Puget Sound regional council for one time only. If Substitute House Bill No. 3224 is not enacted by June 30, 2008, the amount provided in this subsection shall lapse.

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.	((\$66,342,000))
	<u>\$66,102,000</u>
Motor Vehicle Account--Federal Appropriation.	\$400,000
Multimodal Transportation Account--State Appropriation.	\$259,000
TOTAL APPROPRIATION.	((\$67,001,000))
	<u>\$66,761,000</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))
	<u>\$1,153,000</u>

(c) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES.	((\$4,157,000))
	<u>\$4,859,000</u>

(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL.	((\$4,033,000))
	<u>\$7,593,000</u>

(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION.	\$36,665,000
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(f) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE.	\$1,838,000
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(g) FOR ARCHIVES AND RECORDS MANAGEMENT.	((\$647,000))
	<u>\$677,000</u>

(h) FOR OFFICE OF MINORITIES AND WOMEN BUSINESS ENTERPRISES.	((\$1,070,000))
	<u>\$1,042,000</u>

(i) FOR USE OF FINANCIAL SYSTEMS PROVIDED BY THE OFFICE OF FINANCIAL MANAGEMENT.	((\$930,000))
	<u>\$1,266,000</u>

(j) FOR POLICY ASSISTANCE FROM THE DEPARTMENT OF INFORMATION SERVICES.	((\$1,138,000))
	<u>\$945,000</u>

(k) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE.	((\$8,859,000))
	<u>\$9,045,000</u>

(l) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE FOR THE SECOND PHASE OF THE BOLDT LITIGATION.	\$158,000
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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.	((\$85,202,000))
	<u>\$85,601,000</u>
Multimodal Transportation Account--Federal Appropriation.	\$2,582,000
Multimodal Transportation Account--Private/Local Appropriation.	((\$291,000))
	<u>\$659,000</u>
TOTAL APPROPRIATION.	((\$128,075,000))
	<u>\$128,842,000</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.....	((\$412,189,000))
	<u>\$426,761,000</u>
Multimodal Transportation Account--State Appropriation.	((\$1,830,000))
	<u>\$1,914,000</u>
TOTAL APPROPRIATION.....	((\$414,019,000))
	<u>\$428,675,000</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.

(11) The department shall allow the use, by two separate drivers, of fare media allowing for multiple discounted vehicle trips aboard Washington state ferries vessels.

(12) Washington state ferries may investigate the implementation of a pilot car-sharing program in the San Juan Islands, in order to reduce the peak auto-load pressures on the inter-island San Juan ferry system and provide a convenient alternative for the residents of the San Juan Islands. Under the pilot program, inter-island passengers should be able to reserve a car, pay their normal automobile ferry fare, walk on the ferry, and use the shared car upon arrival. The Washington state ferries shall report to the transportation committees of the legislature by November 15, 2008, regarding the feasibility of the pilot program, including whether the difference between the passenger ferry fare and the automobile ferry fare would cover the subsidy costs needed to implement the pilot program.

(13) While developing fare and pricing policy proposals, the department may consider the desirability of reasonable fares for persons using the ferry system to commute daily to work and other frequent users who live in ferry-dependent communities.

(14) \$357,000 of the Puget Sound ferry operations account--state appropriation is for two extra trips per day, beyond the current schedule, from May 19, 2008, through September 8, 2008, at the Port Townsend/Keystone route.

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. ~~(\$37,034,000)~~
\$37,010,000

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. ~~(\$8,630,000)~~
\$8,981,000
Motor Vehicle Account--Federal Appropriation. \$2,567,000
TOTAL APPROPRIATION. ~~(\$11,197,000)~~
\$11,548,000

(1) The appropriations in this section are subject to the following conditions and limitations: The department of transportation shall provide up to \$2,700,000 in toll credits to Kitsap transit for passenger-only ferry service and up to \$750,000 in toll credits to the port of Kingston for the purchase of a passenger-only ferry vessel. The number of toll credits provided to Kitsap transit and the port of Kingston 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 a match to the federal grant funding on projects to which these toll credits are applied.

(2) \$902,000 of the motor vehicle account--state appropriation is provided solely to Wahkiakum county for operating and maintenance costs of the Puget Island-Westport ferry.

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. ~~(\$2,934,000)~~
\$4,234,000

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, SeaTac NB, SeaTac 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.	(\$2,368,000)
	<u>\$2,370,000</u>
County Arterial Preservation Account--State Appropriation.	(\$32,861,000)
	<u>\$32,641,000</u>
TOTAL APPROPRIATION.	(\$99,229,000)
	<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.	(\$4,500,000)
	<u>\$5,900,000</u>
Urban Arterial Trust Account--State Appropriation.	(\$129,600,000)
	<u>\$126,600,000</u>
Transportation Improvement Account--State Appropriation.	(\$90,643,000)
	<u>\$87,143,000</u>
TOTAL APPROPRIATION.	(\$224,743,000)
	<u>\$219,643,000</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))
	<u>\$6,255,000</u>

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.

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.	((\$1,226,516,000))
	<u>\$1,109,593,000</u>
Motor Vehicle Account--State Appropriation.	((\$82,045,000))
	<u>\$87,210,000</u>
Motor Vehicle Account--Federal Appropriation.	((\$404,090,000))
	<u>\$457,580,000</u>
Motor Vehicle Account--Private/Local Appropriation.. . . .	((\$49,157,000))
	<u>\$64,487,000</u>
Special Category C Account--State Appropriation.. . . .	((\$29,968,000))
	<u>\$29,125,000</u>
<u>Multimodal Transportation Account--Federal Appropriation.</u>	<u>\$86,100,000</u>
Tacoma Narrows Toll Bridge Account--State Appropriation.. . . .	((\$142,484,000))
	<u>\$32,277,000</u>
Transportation 2003 Account (Nickel Account)--State Appropriation.	((\$1,100,746,000))
	<u>\$1,147,529,000</u>
(Freight Congestion Relief Account--State Appropriation.	(\$40,000,000)
<u>Freight Mobility Multimodal Account--State Appropriation.</u>	<u>\$208,000</u>
TOTAL APPROPRIATION.	((\$3,075,006,000))
	<u>\$3,014,109,000</u>

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~~)) March 10, 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) 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 (~~(\$8,095,541)~~) \$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)~~) \$10,610,000 in contributions from project partners, including Burlington Northern Santa Fe railroad.

(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.

~~((8))~~ (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."

~~((9))~~ (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.

~~((11))~~ (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.

~~((12))~~ (10) \$250,000 of the motor vehicle account--state appropriation (~~(15)~~) and \$226,000 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.

~~((13))~~ (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).

~~((14))~~ (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.

~~((15))~~ (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.

~~((16))~~ (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.

~~((17))~~ (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.

~~((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))~~ \$825,000,000 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))~~ \$740,000,000 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))~~ \$21,497,000 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 ~~((ts))~~ 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) \$1,400,000 of the motor vehicle account--state appropriation is provided solely for safety improvements on US Highway 2 between Monroe and Gold Bar. Additional project funding of \$8,600,000 is assumed in the 2009-2011 biennium, bringing the total project funding to \$10,000,000. This high priority safety project will provide safety enhancements on US Highway 2 between Gold Bar and Monroe, such as a passing lane or interchange/turning lane improvements. The department shall seek input from the US Highway 2 safety coalition to select projects that will help reduce fatalities on this corridor.

(29) \$2,267,000 of the motor vehicle account--federal appropriation, \$218,500 of the motor vehicle account--state appropriation, and \$1,500,000 of the motor vehicle account--private/local appropriation are provided solely for installing centerline rumble strips and related improvements on US Highway 2 between Monroe and Sultan. The section of US Highway 2 from Monroe to Deception Creek has a high frequency of centerline crossover collisions. By installing centerline rumble strips, the project will reduce the risk of crossover collisions. This project will also place shoulder rumble strips between Monroe and Sultan.

(30) \$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.

(31) For the period of preconstruction tolling on the state route 520 bridge, the department shall develop improvements of traffic flow from the eastern Lake Washington shoreline to 108th avenue northeast in Bellevue including:

(a) Near-term, low-cost enhancements which relocate the high-occupancy vehicle lanes to the inside of the alignment; and

(b) A plan for an accelerated improvement project for the construction of median flyer stops, reconfiguration of interchanges, addition of direct access ramps, community enhancement lids, and pedestrian/bike path connections.

The department shall report to the joint transportation committee by September 1, 2008, on the short-term low-cost improvement plans and include in their budget submittal to the office of financial management a proposal for the accelerated improvement project.

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+) 2008-1, Highway Preservation Program (P) as developed ((April 20, 2007)) March 10, 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 \$39,953,000. 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.	((\$9,212,000))
	<u>\$9,462,000</u>
Motor Vehicle Account--Federal Appropriation.	\$15,951,000
Motor Vehicle Account--Private/Local Appropriation.	\$74,000
TOTAL APPROPRIATION.	((\$25,237,000))
	<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.	((\$139,139,000))
	<u>\$142,250,000</u>
Puget Sound Capital Construction Account--Federal Appropriation.	((\$66,145,000))
	<u>\$45,259,000</u>
<u>Puget Sound Capital Construction Account--Private/Local Appropriation.</u>	<u>\$2,089,000</u>
Multimodal Transportation Account--State Appropriation.	\$4,100,000
Transportation 2003 Account (Nickel Account)--State Appropriation.	((\$76,525,000))
	<u>\$59,469,000</u>
TOTAL APPROPRIATION.	((\$285,909,000))
	<u>\$253,167,000</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 March 10, 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)~~) \$21,460,823 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;
- (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;

~~((4))~~ (1) 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))~~ ~~(\$76,525,000)~~ (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) \$1,105,000 of the Puget Sound capital construction account--state appropriation and \$8,038,000 of the transportation 2003 account (nickel account)--state appropriation are provided solely for a dolphin replacement project at the Vashon Island ferry terminal. The department shall submit a predesign study to the joint transportation committee before beginning design or construction of this project.

(9) The department of transportation is authorized to sell up to \$105,000,000 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.

(10) 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.

(11) 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. Until the completion of the capital plan, the department shall maintain capital staffing levels at or below the level of staffing on January 1, 2008.

(12) The department shall sell, be in the process of selling, or otherwise dispose of the four steel electric auto-ferry vessels in the most cost effective way practicable no later than June 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
((Freight Congestion Relief Account--State Appropriation.	(\$25,000,000)
Transportation Infrastructure Account--State Appropriation.	(\$2,500,000)
	<u>\$1,713,000</u>
<u>Transportation Infrastructure Account--Federal Appropriation.</u>	<u>\$787,000</u>
Multimodal Transportation Account--State Appropriation.	(\$154,637,000)
	<u>\$165,512,000</u>
Multimodal Transportation Account--Federal Appropriation.	(\$30,450,000)
	<u>\$33,906,000</u>
Multimodal Transportation Account--Private/Local Appropriation.	(\$7,894,000)
	<u>\$2,659,000</u>
TOTAL APPROPRIATION.	(\$220,981,000)
	<u>\$205,077,000</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))~~ March 10, 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)~~ \$1,713,000 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 required environmental documents 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.

~~((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 Watco. 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 underexpenditures of 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.

(9) Up to \$400,000 of the multimodal transportation account--state appropriation is contingent upon the port of Chehalis submitting a full copy of the FEMA application packet to the department in order to assist the department in verifying the scope of the repairs and the rail transportation value of the project identified on the project list referenced in subsection (1)(a) of this section as "Port of Chehalis-Track Rehabilitation" (F01002A).

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.	(\$12,500,000)
	<u>\$12,378,000</u>
((Freight Congestion Relief Account--State Appropriation.	\$46,720,000)
Transportation Partnership Account--State Appropriation.	(\$2,906,000)
	<u>\$3,906,000</u>
Motor Vehicle Account--State Appropriation.	(\$9,854,000)
	<u>\$12,870,000</u>
Motor Vehicle Account--Federal Appropriation.	(\$60,150,000)
	<u>\$63,823,000</u>
Freight Mobility Multimodal Account--State Appropriation.	(\$12,100,000)
	<u>\$12,750,000</u>
<u>Freight Mobility Multimodal Account--Private/Local Appropriation.</u>	<u>\$3,755,000</u>
Multimodal Transportation Account--Federal Appropriation.	(\$3,500,000)
	<u>\$4,224,000</u>
Multimodal Transportation Account--State Appropriation.	(\$33,158,000)
	<u>\$32,134,000</u>
Transportation 2003 Account (Nickel Account)--State Appropriation.	(\$2,706,000)
	<u>\$2,721,000</u>
Passenger Ferry Account--State Appropriation.	\$8,500,000
TOTAL APPROPRIATION.	(\$193,903,000)
	<u>\$158,870,000</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 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.

(18) For the 2007-09 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects managed by the freight mobility strategic investment board, in order for the board to manage project spending and efficiently deliver all projects in the respective program.

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.	((\$570,030,000))
	<u>\$544,061,000</u>
Ferry Bond Retirement Account Appropriation.	((\$38,059,000))
	<u>\$37,380,000</u>
Transportation Improvement Board Bond Retirement Account--State Appropriation.	((\$27,749,000))
	<u>\$26,822,000</u>
Nondebt-Limit Reimbursable Account Appropriation.	((\$19,359,000))
	<u>\$13,059,000</u>
Transportation Partnership Account--State Appropriation.	((\$6,694,000))
	<u>\$1,823,000</u>
Motor Vehicle Account--State Appropriation.	((\$986,000))
	<u>\$457,000</u>
Transportation Improvement Account--State Appropriation.	\$68,000
Multimodal Transportation Account--State Appropriation.	((\$1,032,000))
	<u>\$675,000</u>
Transportation 2003 Account (Nickel Account)--State Appropriation.	((\$6,560,000))

	<u>\$2,003,000</u>
Urban Arterial Trust Account--State Appropriation.....	(((\$473,000))
	<u>\$113,000</u>
Special Category C Account Appropriation.....	(((\$160,000))
	<u>\$99,000</u>
TOTAL APPROPRIATION.....	(((\$671,170,000))
	<u>\$626,560,000</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.....	(((\$2,254,000))
	<u>\$243,000</u>
Motor Vehicle Account--State Appropriation.	(((\$329,000))
	<u>\$61,000</u>
Transportation Improvement Account--State Appropriation.	\$5,000
Multimodal Transportation Account--State Appropriation.	(((\$130,000))
	<u>\$90,000</u>
Transportation 2003 Account (Nickel Account)--State Appropriation.	(((\$2,187,000))
	<u>\$267,000</u>
Urban Arterial Trust Account--State Appropriation.....	\$38,000
Special Category C Account--State Appropriation.....	(((\$53,000))
	<u>\$13,000</u>
TOTAL APPROPRIATION.....	(((\$4,996,000))
	<u>\$717,000</u>

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

((+)) Motor Vehicle Account--State Reappropriation:

For transfer to the Tacoma Narrows Toll Bridge Account.	(((\$131,016,000))
	<u>\$19,133,000</u>

The department of transportation is authorized to sell up to (((\$131,016,000)) \$18,000,000 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.	-\$131,500,000
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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:

FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION

Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities and counties.	(((\$526,320,000))
	<u>\$501,783,827</u>

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.....	(((\$937,181,000))
	<u>\$902,982,000</u>

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.	(((\$346,657,000))
	<u>\$445,345,000</u>

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.	(((\$3,005,000))
	<u>\$4,505,000</u>

(2) License Plate Technology Account--State Appropriation: For the Multimodal Transportation Account--State.	\$4,500,000
(3) Motor Vehicle Account--State Appropriation: For transfer to the High-Occupancy Toll Lanes Operations--State Account.	\$3,000,000
(4) Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Capital Construction Account--State	\$20,000,000
(5) Multimodal Transportation Account--State Appropriation: For transfer to the Puget Sound Ferry Operations Account--State.	(\$39,000,000) <u>\$66,000,000</u>
(6) Advanced Right-of-Way Revolving Account--State Appropriation: For transfer to the Motor Vehicle Account--State.	\$30,000,000
(7) Waste Tire Removal Account--State Appropriation: For transfer to the Motor Vehicle Account--State.	\$5,600,000
(8) Motor Vehicle Account--State Appropriation: ((For transfer to the Transportation Partnership Account--State.	\$25,000,000)
For transfer to the Puget Sound Ferry Operations Account--State.	<u>\$3,000,000</u>
((+0)) (9) Multimodal Transportation Account--State Appropriation: For transfer to the Transportation Infrastructure Account--State.	(\$7,000,000) <u>\$6,600,000</u>
((+1)) (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.	<u>\$1,000,000</u>

The transfers identified in this section are subject to the following conditions and limitations: ~~((+))~~ 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:

Our ability to maintain and preserve the state's investment in transportation is acknowledged to be related to the replacement cost of the system, yet the state has no estimates of the entire system's cost or replacement value. A large portion of the state's highway system was developed prior to June 30, 1980, so it is important that the inventory and valuation include all of the state's highway system including the parts of the system constructed prior to June 30, 1980, that is not required by governmental accounting standards board's statement number 34. Consequently, the department of transportation, in conjunction with the office of financial management, must implement the governmental accounting standards board's statement number 34, including a complete inventory and valuation of the state's highway system's cost basis and replacement cost. During 2008, the cochairs of the joint transportation committee shall select legislators to work with the office of financial management and the department of transportation. The purpose of the effort is to enhance decision making that will result in strategic long-term investment decisions in transportation capital project management and appropriate levels of asset maintenance and preservation. The office of financial management will coordinate and manage the complete inventory and the valuation of the total state's highway system. The office of financial management must submit a final report to the legislative transportation committees on or before December 1, 2009.

NEW SECTION. Sec. 603. 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.

Sec. 604. 2007 c 518 s 713 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION

Transportation Infrastructure Account--State Appropriation. ~~((~~\$7,000,000~~))~~
\$8,600,000

The appropriation in this section is subject to the following conditions and limitations: The Palouse River and Coulee City (PCC) rail line system is made up of the CW, P&L and PV Hooper rail lines. The amount provided in this section is provided solely for grants to any

intergovernmental entity or local rail district to which ~~((operating rights for the PCC rail line system are assigned, provided that the funds are))~~ the department of transportation assigns the management and oversight responsibility for the business and economic development elements of existing operating leases on the PCC rail lines. Business and economic development elements include such items as levels of service and business operating plans, but shall not include the state's oversight of railroad regulatory compliance, rail infrastructure condition, or real property management issues. The PCC rail system must be managed in a self-sustaining manner and best efforts shall be used to ensure that it does not require state capital or operating subsidy beyond the level of state funding expended on it to date. The assignment of the stated responsibilities to an intergovernmental entity or rail district shall be on such terms and conditions as the department of transportation and the intergovernmental entity or rail district mutually agree. The grant funds may be used only to refurbish the rail lines. It is the intent of the legislature to make the funds appropriated in this section available as grants to an intergovernmental entity or local rail district for the purposes stated in this section at least until June 30, 2012, and to reappropriate as necessary any portion of the appropriation in this section that is not used by June 30, 2009.

NEW SECTION. Sec. 605. A new section is added to 2007 c 518 (uncodified) to read as follows:

SPECIAL APPROPRIATIONS TO THE GOVERNOR--INSURANCE ACCOUNTING SYSTEM

Aeronautics Account--State Appropriation.	\$2,000
State Patrol Highway Account--State Appropriation.	\$338,000
Puget Sound Capital Construction Account--State Appropriation.	\$24,000
Transportation Partnership Account--State Appropriation.	\$44,000
Highway Safety Account--State Appropriation.	\$120,000
Motor Vehicle Account--State Appropriation.	\$882,000
Puget Sound Ferry Operating Account--State Appropriation.	\$294,000
Urban Arterial Trust Account--State Appropriation.	\$2,000
Transportation Improvement Account--State Appropriation.	\$2,000
Department of Licensing Services Account--State Appropriation.	\$2,000
Multimodal Transportation Account--State Appropriation.	\$12,000
Tacoma Narrows Bridge Toll Account--State Appropriation.	\$10,000
Transportation 2003 Account (Nickel Account)--State Appropriation.	\$120,000
TOTAL APPROPRIATION.	\$1,852,000

The appropriations in this section fund various state transportation agencies to support the state insurance accounting system. From the applicable accounts, the office of financial management shall reduce allotments to the respective agencies by an amount that conforms with the insurance accounting system special appropriations enacted in the 2008 supplemental omnibus appropriations act, Engrossed Substitute House Bill No. 2687 (chapter . . ., Laws of 2008). The allotment reductions under this section shall be placed in reserve status and remain unexpended.

NEW SECTION. Sec. 606. 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. 607. 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, 107, 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, 503, and 713 (uncodified); adding new sections to 2007 c 518 (uncodified); making appropriations and authorizing capital improvements; and declaring an emergency."

and that the bill do pass as recommended by the Conference Committee.

Signed by Senators Haugen, Marr and Swecker, and Representatives Clibborn and Jarrett.

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

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL**

There being no objection, the House adopted the conference committee report on ENGROSSED SUBSTITUTE HOUSE BILL NO. 2878 and advanced the bill as recommended by the Conference Committee to final passage.

**FINAL PASSAGE OF HOUSE BILL
AS RECOMMENDED BY
CONFERENCE COMMITTEE**

Representatives Clibborn, Jarrett, Loomis, Rolfes and Eddy spoke in favor of the passage of the bill as recommended by the Conference Committee.

Representatives Rodne, Ahern, Anderson, Schindler and Erickson spoke against the passage of the bill as recommended by the Conference Committee.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2878 as recommended by the Conference Committee.

MOTIONS

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

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2878, as recommended by the Conference Committee, and the bill passed the House by the following vote: Yeas - 67, Nays - 28, Absent - 0, Excused - 3.

Voting yea: Representatives Appleton, Armstrong, Bailey, Blake, Campbell, Chase, Clibborn, Cody, Condotta, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kenney, Kessler, Kirby, Kristiansen, Lantz, Liias, Linville, Loomis, McCoy, McCune, McIntire, Miloscia, Moeller, Morris, Nelson, O'Brien, Ormsby, Pearson, Pedersen, Pettigrew, Quall, Roberts, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Smith, Sommers, Springer,

Sullivan, Takko, Van De Wege, Wallace, Wood and Mr. Speaker - 67.

Voting nay: Representatives Ahern, Alexander, Anderson, Barlow, Chandler, Crouse, DeBolt, Dunn, Ericksen, Haler, Herrera, Hinkle, Hurst, Kelley, Kretz, McDonald, Morrell, Newhouse, Orcutt, Priest, Roach, Rodne, Ross, Schindler, Schmick, Sump, Walsh and Warnick - 28.

Excused: Representatives Hailey, Upthegrove and Williams - 3.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2878, as recommended by the Conference Committee, having received the necessary constitutional majority, was declared passed.

SIGNED BY THE SPEAKER

The Speaker signed the following bills:

SUBSTITUTE HOUSE BILL NO. 1141,
THIRD SUBSTITUTE HOUSE BILL NO. 2053,
HOUSE BILL NO. 2460,
HOUSE BILL NO. 2467,
ENGROSSED HOUSE BILL NO. 2476,
SECOND SUBSTITUTE HOUSE BILL NO. 2479,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2480,
SUBSTITUTE HOUSE BILL NO. 2482,
HOUSE BILL NO. 2542,
HOUSE BILL NO. 2544,
SUBSTITUTE HOUSE BILL NO. 2551,
SECOND SUBSTITUTE HOUSE BILL NO. 2635,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2647,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2668,
HOUSE BILL NO. 2678,
SUBSTITUTE HOUSE BILL NO. 2679,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2712,
SECOND SUBSTITUTE HOUSE BILL NO. 2722,
SUBSTITUTE HOUSE BILL NO. 2729,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2783,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2817,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2844,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2878,
SUBSTITUTE HOUSE BILL NO. 3120,
SUBSTITUTE HOUSE BILL NO. 3144,
SUBSTITUTE HOUSE BILL NO. 3149,
SECOND SUBSTITUTE HOUSE BILL NO. 3168,
HOUSE BILL NO. 3188,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3205,
SUBSTITUTE HOUSE BILL NO. 3212,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3254,
HOUSE BILL NO. 3375,

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 6375, By Senators Hatfield, Schoesler, Carrell, Holmquist, Parlette and Rasmussen

Providing a sales tax exemption for certain trail grooming services.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Senate Bill No. 6375.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 6375 and the bill passed the House by the following vote: Yeas - 96, Nays - 1, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 96.

Voting nay: Representative Anderson - 1.

Excused: Representative Hailey - 1.

SENATE BILL NO. 6375, having received the necessary constitutional majority, was declared passed.

SENATE BILL NO. 6628, By Senators Prentice, Fairley and Rasmussen; by request of Department of Social and Health Services

Clarifying the state's ability to recover from defendants the cost of mental health treatment provided at state hospitals.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Senate Bill No. 6628.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 6628 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

SENATE BILL NO. 6628, having received the necessary constitutional majority, was declared passed.

ENGROSSED SENATE BILL NO. 6629, By Senators Franklin and Prentice; by request of Department of Social and Health Services

Making clarifications to the nursing facility medicaid payment system in relation to the use of minimum occupancy in setting cost limits and application of the statewide average payment rate specified in the biennial appropriations act.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representative Cody spoke in favor of passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 6629.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 6629 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

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, Seaquist, Sells, Simpson, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

ENGROSSED SENATE BILL NO. 6629, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 6828, By Senate Committee on Ways & Means (originally sponsored by Senators Marr, Prentice, Zarelli, Schoesler, Hobbs, Kilmer, Shin and Rasmussen)

Concerning the excise taxation of the aerospace industry.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Liias, Orcutt, Armstrong, Ormsby and Kenney spoke in favor of passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 6828.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 6828 and the bill passed the House by the following vote: Yeas - 92, Nays - 5, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, DeBolt, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, 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, Seaquist, Sells, Simpson, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 92.

Voting nay: Representatives Anderson, Chandler, Dickerson, Hasegawa and Schual-Berke - 5.

Excused: Representative Hailey - 1.

SUBSTITUTE SENATE BILL NO. 6828, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on Substitute Senate Bill No. 6828.

KEVIN VAN DE WEGE, 24th District

SUBSTITUTE SENATE BILL NO. 6851, By Senate Committee on Ways & Means (originally sponsored by Senators Prentice and Haugen)

Concerning the documentation required in order to obtain a real estate excise tax exemption at the time of inheritance.

The bill was read the second time.

There being no objection, the committee amendment by the Committee on Finance was adopted. (For Committee amendment, see Journal, 46th Day, February 28, 2008.)

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representatives Santos and Orcutt spoke in favor of passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 6851, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 6851, as amended by the House, and the bill passed the House by the following vote: Yeas - 91, Nays - 6, Absent - 0, Excused - 1.

Voting yea: Representatives Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell,

Chandler, Chase, Clibborn, Cody, Condotta, Conway, Darneille, DeBolt, Dickerson, 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, 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 91.

Voting nay: Representatives Ahern, Crouse, Dunn, McCune, Schindler and Schmick - 6.

Excused: Representative Hailey - 1.

SUBSTITUTE SENATE BILL NO. 6851, as amended by the House, having received the necessary constitutional majority, was declared passed.

SECOND ENGROSSED SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8407, By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Clements, Keiser and Parlette)

Addressing liquor laws.

The concurrent resolution was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the concurrent resolution was placed on final adoption.

Representatives Conway and Condotta spoke in favor of adoption of the concurrent resolution.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final adoption of Second Engrossed Substitute Senate Concurrent Resolution No. 8407.

ROLL CALL

The Clerk called the roll on the final adoption of Second Engrossed Substitute Senate Concurrent Resolution No. 8407 and the concurrent resolution was adopted by the House by the following vote: Yeas - 70, Nays - 27, Absent - 0, Excused - 1.

Voting yea: Representatives Anderson, Appleton, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Liias, Linville, Loomis, McCoy, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Priest, Quall, Roberts,

Rodne, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Williams, Wood and Mr. Speaker - 70.

Voting nay: Representatives Ahern, Alexander, Armstrong, Bailey, Chandler, Condotta, Crouse, DeBolt, Dunn, Haler, Herrera, Hinkle, Hurst, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Roach, Ross, Schindler, Schmick, Smith, Sump and Warnick - 27.

Excused: Representative Hailey - 1.

SECOND ENGROSSED SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8407, having received the necessary constitutional majority, was declared adopted.

MESSAGES FROM THE SENATE

March 12, 2008

Mr. Speaker:

The President has signed:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5010,
SUBSTITUTE SENATE BILL NO. 5254,
ENGROSSED SENATE BILL NO. 5751,
SENATE BILL NO. 5878,
SUBSTITUTE SENATE BILL NO. 6195,
SECOND SUBSTITUTE SENATE BILL NO. 6206,
SENATE BILL NO. 6313,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6333,
SUBSTITUTE SENATE BILL NO. 6339,
ENGROSSED SENATE BILL NO. 6357,
SECOND SUBSTITUTE SENATE BILL NO. 6377,
SUBSTITUTE SENATE BILL NO. 6389,
SENATE BILL NO. 6421,
SECOND SUBSTITUTE SENATE BILL NO. 6468,
SECOND SUBSTITUTE SENATE BILL NO. 6483,
SUBSTITUTE SENATE BILL NO. 6510,
SUBSTITUTE SENATE BILL NO. 6527,
SUBSTITUTE SENATE BILL NO. 6556,
SUBSTITUTE SENATE BILL NO. 6583,
SENATE BILL NO. 6722,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6809,
SENATE BILL NO. 6818,
ENGROSSED SENATE BILL NO. 6821,
SENATE BILL NO. 6839,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 12, 2008

Mr. Speaker:

The Senate recessed from its position, and concurred in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 6760 and passed the bill as amended by the House, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

March 12, 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. 6277,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6295,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6371,
 SUBSTITUTE SENATE BILL NO. 6404,
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6438,
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6673,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6776,

and the same are herewith transmitted.

Brad Hendrickson, Deputy Secretary

The Speaker assumed the chair.

SIGNED BY THE SPEAKER

The Speaker signed the following bills:

ENGROSSED SUBSTITUTE SENATE BILL NO. 5010,
 SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 5100,
 SUBSTITUTE SENATE BILL NO. 5104,
 SUBSTITUTE SENATE BILL NO. 5254,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 5261,
 SUBSTITUTE SENATE BILL NO. 5378,
 SUBSTITUTE SENATE BILL NO. 5524,
 SECOND SUBSTITUTE SENATE BILL NO. 5642,
 ENGROSSED SENATE BILL NO. 5751,
 SENATE BILL NO. 5868,
 SENATE BILL NO. 5878,
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6111,
 SENATE BILL NO. 6187,
 SUBSTITUTE SENATE BILL NO. 6195,
 SECOND SUBSTITUTE SENATE BILL NO. 6206,
 SENATE BILL NO. 6215,
 SENATE BILL NO. 6261,
 SENATE BILL NO. 6289,
 SUBSTITUTE SENATE BILL NO. 6297,
 SENATE BILL NO. 6310,
 SENATE BILL NO. 6313,
 SUBSTITUTE SENATE BILL NO. 6328,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6333,
 SUBSTITUTE SENATE BILL NO. 6339,
 ENGROSSED SENATE BILL NO. 6357,
 SECOND SUBSTITUTE SENATE BILL NO. 6377,
 SENATE BILL NO. 6381,
 SUBSTITUTE SENATE BILL NO. 6389,
 SUBSTITUTE SENATE BILL NO. 6400,
 SENATE BILL NO. 6421,
 SUBSTITUTE SENATE BILL NO. 6439,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6442,
 SENATE BILL NO. 6447,
 SECOND SUBSTITUTE SENATE BILL NO. 6468,
 SECOND SUBSTITUTE SENATE BILL NO. 6483,
 SUBSTITUTE SENATE BILL NO. 6510,
 SUBSTITUTE SENATE BILL NO. 6527,
 SENATE BILL NO. 6534,
 SUBSTITUTE SENATE BILL NO. 6556,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6560,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6570,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6573,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6580,
 SUBSTITUTE SENATE BILL NO. 6583,
 SUBSTITUTE SENATE BILL NO. 6596,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6606,
 SUBSTITUTE SENATE BILL NO. 6607,
 SECOND SUBSTITUTE SENATE BILL NO. 6626,
 SENATE BILL NO. 6628,

ENGROSSED SENATE BILL NO. 6629,
 SUBSTITUTE SENATE BILL NO. 6711,
 SENATE BILL NO. 6722,
 SECOND SUBSTITUTE SENATE BILL NO. 6732,
 SENATE BILL NO. 6739,
 SUBSTITUTE SENATE BILL NO. 6743,
 SUBSTITUTE SENATE BILL NO. 6751,
 SUBSTITUTE SENATE BILL NO. 6761,
 SUBSTITUTE SENATE BILL NO. 6804,
 SUBSTITUTE SENATE BILL NO. 6805,
 SUBSTITUTE SENATE BILL NO. 6807,
 ENGROSSED SUBSTITUTE SENATE BILL NO. 6809,
 SENATE BILL NO. 6818,
 ENGROSSED SENATE BILL NO. 6821,
 SUBSTITUTE SENATE BILL NO. 6828,
 SENATE BILL NO. 6839,
 ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6874,
 SUBSTITUTE SENATE BILL NO. 6932,
 SUBSTITUTE SENATE BILL NO. 6933,
 SENATE BILL NO. 6941,
 SENATE BILL NO. 6950,

The Speaker called upon Representative Morris to preside.

RECONSIDERATION

There being no objection, the House immediately reconsidered the vote by which SECOND ENGROSSED SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8407, was adopted by the House.

The Speaker (Representative Morris presiding) stated the question before the House to be the final adoption of Second Engrossed Substitute Senate Concurrent Resolution No. 8407 on reconsideration.

ROLL CALL

The Clerk called the roll on the adoption of Second Engrossed Substitute Senate Concurrent Resolution No. 8407, on reconsideration, and the concurrent resolution was adopted by the House by the following vote: Yeas - 70, Nays - 27, Absent - 0, Excused - 1.

Voting yea: Representatives Anderson, Appleton, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, Lantz, Liias, Linville, Loomis, McCoy, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Priest, Quall, Roberts, Rodne, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Williams, Wood and Mr. Speaker - 70.

Voting nay: Representatives Ahern, Alexander, Armstrong, Bailey, Chandler, Condotta, Crouse, DeBolt, Dunn, Haler, Herrera, Hinkle, Hurst, Kretz, Kristiansen,

McCune, McDonald, Newhouse, Orcutt, Pearson, Roach, Ross, Schindler, Schmick, Smith, Sump and Warnick - 27.

Excused: Representative Hailey - 1.

SECOND ENGROSSED SUBSTITUTE SENATE CONCURRENT RESOLUTION NO. 8407, on reconsideration, having received the necessary constitutional majority, was declared adopted.

SECOND READING

SUBSTITUTE SENATE BILL NO. 6806, By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Haugen, Rasmussen and Shin)

Providing tax incentives for anaerobic digester production.

The bill was read the second time.

With the consent of the House, amendment (1565) was withdrawn.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Hunter and Orcutt spoke in favor of passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 6806.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 6806 and the bill passed the House by the following vote: Yeas - 96, Nays - 1, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Uptegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 96.

Voting nay: Representative Anderson - 1.

Excused: Representative Hailey - 1.

SUBSTITUTE SENATE BILL NO. 6806, having received the necessary constitutional majority, was declared passed.

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

MESSAGE FROM THE SENATE

March 11, 2008

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2507 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that coordinated planning ensures preparation for all future crises. While it is impossible to eliminate the threats posed to our higher education campuses by crime or disaster, natural or person-caused, it is necessary to mitigate impact through effective all hazard emergency preparedness. The legislature also finds that notifying college and university campus communities of an impending, ongoing, or diffused emergency situation is one of the most critical capabilities that a college or university must have. But how a higher education institution achieves the ability to alert students, faculty, and staff quickly, accurately, and dependably in an emergency situation is not a one size fits all solution. While colleges and universities should maintain their autonomy in choosing how to address safety and security risks, certain consistent protocols are essential for making campuses safer. The legislature further finds that higher education institutions need to ensure that campus law enforcement or security communications equipment, as well as communication systems used by colleges and universities during an emergency, meet technical standards and are compatible with other responding agencies' communication systems. Therefore, it is the intent of the legislature to carefully examine best safety practices at the state's institutions of higher education, examine the use of technology to improve emergency communications, and consider the financial implications of safety and security enhancement plans, as well as the funding sources to support them, in order to maximize limited resources and public benefit.

NEW SECTION. **Sec. 2.** The Washington state patrol and the Washington association of sheriffs and police chiefs, in consultation with the state board for community and technical colleges, the council of presidents, the independent colleges of Washington, and the department of information services, shall conduct a needs analysis and fiscal impact study of potential college and university campus security enhancements, including the addition of two-year and four-year public and independent higher education institutions to the statewide first responder building mapping information system as provided under RCW 36.28A.060.

(1) The study shall:

(a) Assess public and independent colleges and universities to determine whether campus emergency and critical incident plans are up-to-date, comprehensive, and regularly exercised;

(b) Evaluate the potential risks associated with individual types of buildings on all campuses and recommend buildings that are a high priority for adding to the statewide first responder building mapping information system;

(c) Determine the costs and timelines associated with adding priority campus buildings to the statewide first responder building mapping information system; and

(d) Assess campus emergency notification systems or devices, including emergency radio systems, to determine functionality in the campus environment, the adequacy of coverage throughout a campus, and operational compatibility with the radio systems and frequencies utilized by state and local responding agencies.

(2) The Washington state patrol and the Washington association of sheriffs and police chiefs shall report findings and recommendations to the governor and the legislature by November 1, 2008.

NEW SECTION. Sec. 3. 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 capital appropriations act, this act is null and void."

On page 1, line 2 of the title, after "facilities;" strike the remainder of the title and insert "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 SECOND SUBSTITUTE HOUSE BILL NO. 2507 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative O'Brien 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. 2507, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2507, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

SECOND SUBSTITUTE HOUSE BILL NO. 2507, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 11, 2008

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2598 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. Within thirty days after the adoption of final revised mathematics standards as directed under RCW 28A.305.215, the office of the superintendent of public instruction and the state board of education shall work together to develop a request for proposals for private vendors or nonprofit organizations to adapt an existing mathematics curriculum to be aligned with Washington's essential academic learning requirements and grade level expectations and make the curriculum available online at no cost to school districts. At a minimum, the proposed curriculum shall cover course content in grades kindergarten through twelve and the state's college readiness standards. Proposals shall address cost and timelines for adaptation and implementation of the curriculum. The office of the superintendent of public instruction shall review the responses to the request for proposals, including an analysis of the qualifications of the respondents, and report the results of the request for proposals under this section to the governor and the education and fiscal committees of the legislature by December 1, 2008.

Sec. 2. RCW 28A.305.215 and 2007 c 396 s 1 are each amended to read as follows:

(1) The activities in this section revise and strengthen the state learning standards that implement the goals of RCW 28A.150.210, known as the essential academic learning requirements, and improve alignment of school district curriculum to the standards.

(2) The state board of education shall be assisted in its work under subsections (3) and (5) of this section by: (a) An expert national consultant in each of mathematics and science retained by the state board; and (b) the mathematics and science advisory panels created under RCW 28A.305.219, as appropriate, which shall provide review and formal comment on proposed recommendations to the

superintendent of public instruction and the state board of education on new revised standards and curricula.

(3) By September 30, 2007, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in mathematics. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of:

(i) Standards used in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment;

(ii) College readiness standards;

(iii) The national council of teachers of mathematics focal points and the national assessment of educational progress content frameworks; and

(iv) Standards used by three to five other states, including California, and the nation of Singapore; and

(c) Consideration of information presented during public comment periods.

(4) By January 31, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for mathematics and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). The superintendent shall adopt the revised essential academic learning requirements and grade level expectations unless otherwise directed by the legislature during the 2008 legislative session.

(5) By June 30, 2008, the state board of education shall recommend to the superintendent of public instruction revised essential academic learning requirements and grade level expectations in science. The recommendations shall be based on:

(a) Considerations of clarity, rigor, content, depth, coherence from grade to grade, specificity, accessibility, and measurability;

(b) Study of standards used by three to five other states and in countries whose students demonstrate high performance on the trends in international mathematics and science study and the programme for international student assessment; and

(c) Consideration of information presented during public comment periods.

(6) By December 1, 2008, the superintendent of public instruction shall revise the essential academic learning requirements and the grade level expectations for science and present the revised standards to the state board of education and the education committees of the senate and the house of representatives as required by RCW 28A.655.070(4). The superintendent shall adopt the revised essential academic learning requirements and grade level expectations unless otherwise directed by the legislature during the 2009 legislative session.

(7)(a) ~~((By May 15, 2008))~~ Within six months after the standards under subsection (4) of this section are adopted, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic mathematics curricula each for elementary, middle, and high school grade spans.

(b) ~~((By June 30, 2008))~~ Within two months after the presentation of the recommended curricula, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended mathematics curricula. The superintendent of public instruction shall

make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(c) By May 15, 2009, the superintendent of public instruction shall present to the state board of education recommendations for no more than three basic science curricula each for elementary, middle, and high school grade spans.

(d) By June 30, 2009, the state board of education shall provide official comment and recommendations to the superintendent of public instruction regarding the recommended science curricula. The superintendent of public instruction shall make any changes based on the comment and recommendations from the state board of education and adopt the recommended curricula.

(e) In selecting the recommended curricula under this subsection (7), the superintendent of public instruction shall provide information to the mathematics and science advisory panels created under RCW 28A.305.219, as appropriate, and seek the advice of the appropriate panel regarding the curricula that shall be included in the recommendations.

(f) The recommended curricula under this subsection (7) shall align with the revised essential academic learning requirements and grade level expectations. In addition to the recommended basic curricula, appropriate diagnostic and supplemental materials shall be identified as necessary to support each curricula.

(g) Subject to funds appropriated for this purpose and availability of the curricula, at least one of the curricula in each grade span and in each of mathematics and science shall be available to schools and parents online at no cost to the school or parent.

(8) By December 1, 2007, the state board of education shall revise the high school graduation requirements under RCW 28A.230.090 to include a minimum of three credits of mathematics, one of which may be a career and technical course equivalent in mathematics, and prescribe the mathematics content in the three required credits.

(9) Nothing in this section requires a school district to use one of the recommended curricula under subsection (7) of this section. However, the statewide accountability plan adopted by the state board of education under RCW 28A.305.130 shall recommend conditions under which school districts should be required to use one of the recommended curricula. The plan shall also describe the conditions for exception to the curriculum requirement, such as the use of integrated academic and career and technical education curriculum. Required use of the recommended curricula as an intervention strategy must be authorized by the legislature as required by RCW 28A.305.130(4)(e) before implementation.

(10) The superintendent of public instruction shall conduct a comprehensive survey of the mathematics curricula being used by school districts at all grade levels and the textbook and curriculum purchasing cycle of the districts and report the results of the survey to the education committees of the legislature by November 15, 2008.

NEW SECTION. Sec. 3. 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 "curriculum;" strike the remainder of the title and insert "amending RCW 28A.305.215; 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 SECOND SUBSTITUTE HOUSE BILL NO. 2598 and advanced the bill as amended by the Senate to final passage.

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

Representatives Sullivan 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. 2598, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2598, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

SECOND SUBSTITUTE HOUSE BILL NO. 2598, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 11, 2008

Mr. Speaker:

The Senate has passed SECOND SUBSTITUTE HOUSE BILL NO. 2714 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.44.130 and 2006 c 129 s 2, 2006 c 128 s 2, 2006 c 127 s 2, and 2006 c 126 s 2 are each reenacted and amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection:

(i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within ten days of enrolling or prior to arriving at the school to attend classes, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(iii) Who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's employment by the institution; or

(iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, or a public or private school regulated under Title 28A RCW or chapter 72.40 RCW on September 1, 2006, must notify the county sheriff immediately.

(d) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(e)(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information

received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.550 upon the public safety department of any public or private school or institution of higher education.

(3)(a) The person shall provide the following information when registering: (i) Name; (ii) complete residential address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) Any person who lacks a fixed residence shall provide the following information when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x) where he or she plans to stay.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state

department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for

offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) **OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY.** Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

(vii) **OFFENDERS WHO LACK A FIXED RESIDENCE.** Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) **OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION.** Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) **OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE.** Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (11) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send signed written notice of the change of address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send signed written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send signed written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the

person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) All offenders who are required to register pursuant to this section who have a fixed residence and who are designated as a risk level II or III must report, in person, every ninety days to the sheriff of the county where he or she is registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. An offender who complies with the ninety-day reporting requirement with no violations for a period of at least five years in the community may petition the superior court to be relieved of the duty to report every ninety days. The petition shall be made to the superior court in the county where the offender resides or reports under this section. The prosecuting attorney of the county shall be named and served as respondent in any such petition. The court shall relieve the petitioner of the duty to report if the petitioner shows, by a preponderance of the evidence, that the petitioner has complied with the reporting requirement for a period of at least five years and that the offender has not been convicted of a criminal violation of this section for a period of at least five years, and the court determines that the reporting no longer serves a public safety purpose. Failure to report, as specified, constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

(8) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

(9) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints. A photograph may be taken at any time to update an individual's file.

(10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means:

(i) Any offense defined as a sex offense by RCW 9.94A.030;

(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection (10)(b); and (iii) any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection (10)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

(11)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class ((€)) B felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (10)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (10)(a) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(12)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined in subsection (10)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection (10)(b) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(13) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

Sec. 2. 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) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

(17) "Department" means the department of corrections.

(18) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(19) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(20) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

(21) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(22) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

(23) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(24) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(25) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

(26) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

(27) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

(28) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(29) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.

(30) "Nonviolent offense" means an offense which is not a violent offense.

(31) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(32) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

(33) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525;

provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, 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)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(34) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(35) "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) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(37) "Public school" has the same meaning as in RCW 28A.150.010.

(38) "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) "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) "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) "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) "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) "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) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(45) "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) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(47) "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) "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) "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) "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) "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) "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) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 3. RCW 13.40.0357 and 2007 c 199 s 11 are each amended to read as follows:

Format change to accommodate amendment/table

DESCRIPTION AND OFFENSE CATEGORY		JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	
	Arson and Malicious Mischief	
A	Arson 1 (9A.48.020)	B +
B	Arson 2 (9A.48.030)	C

C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090(2) (a) and (c))	E
E	Malicious Mischief 3 (9A.48.090(2)(b))	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B +
Assault and Other Crimes Involving Physical Harm		
A	Assault 1 (9A.36.011)	B +
B +	Assault 2 (9A.36.021)	C +
C +	Assault 3 (9A.36.031)	D +
D +	Assault 4 (9A.36.041)	E
B +	Drive-By Shooting (9A.36.045)	C +
D +	Reckless Endangerment (9A.36.050)	E
C +	Promoting Suicide Attempt (9A.36.060)	D +
D +	Coercion (9A.36.070)	E
C +	Custodial Assault (9A.36.100)	D +
Burglary and Trespass		
B +	Burglary 1 (9A.52.020)	C +
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E
Drugs		
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C +	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D +
E	Possession of Legend Drug (69.41.030(2)(b))	E
B +	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B +
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Marihuana <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C +	Sale of Controlled Substance for Profit (69.50.410)	C +
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B

C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
Firearms and Weapons		
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(iii))	C
D +	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
Homicide		
A +	Murder 1 (9A.32.030)	A
A +	Murder 2 (9A.32.050)	B +
B +	Manslaughter 1 (9A.32.060)	C +
C +	Manslaughter 2 (9A.32.070)	D +
B +	Vehicular Homicide (46.61.520)	C +
Kidnapping		
A	Kidnap 1 (9A.40.020)	B +
B +	Kidnap 2 (9A.40.030)	C +
C +	Unlawful Imprisonment (9A.40.040)	D +
Obstructing Governmental Operation		
D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B +	Intimidating a Public Servant (9A.76.180)	C +
B +	Intimidating a Witness (9A.72.110)	C +
Public Disturbance		
C +	Riot with Weapon (9A.84.010(2)(b))	D +
D +	Riot Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
Sex Crimes		
A	Rape 1 (9A.44.040)	B +
A-	Rape 2 (9A.44.050)	B +
C +	Rape 3 (9A.44.060)	D +
A-	Rape of a Child 1 (9A.44.073)	B +
B +	Rape of a Child 2 (9A.44.076)	C +
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D +	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E

B +	Promoting Prostitution 1 (9A.88.070)	C +
C +	Promoting Prostitution 2 (9A.88.080)	D +
E	O & A (Prostitution) (9A.88.030)	E
B +	Indecent Liberties (9A.44.100)	C +
A-	Child Molestation 1 (9A.44.083)	B +
B	Child Molestation 2 (9A.44.086)	C +
<u>C</u>	<u>Failure to Register as a Sex Offender</u> <u>(9A.44.130)</u>	<u>D</u>
	Theft, Robbery, Extortion, and Forgery	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B +
B +	Robbery 2 (9A.56.210)	C +
B +	Extortion 1 (9A.56.120)	C +
C +	Extortion 2 (9A.56.130)	D +
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of 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
	Motor Vehicle Related Crimes	
E	Driving Without a License (46.20.005)	E
B +	Hit and Run - Death (46.52.020(4)(a))	C +
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B +	Felony Driving While Under the Influence (46.61.502(6))	B
B +	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
	Other	
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1 ¹ (9A.76.110)	C
C	Escape 2 ¹ (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E

A	Other Offense Equivalent to an Adult Class A Felony	B +
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) ²	V

¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

- 1st escape or attempted escape during 12-month period - 4 weeks confinement
- 2nd escape or attempted escape during 12-month period - 8 weeks confinement
- 3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

²If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, D, or RCW 13.40.167.

**OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE**

	A +	180 WEEKS TO AGE 21 YEARS			
	A	103 WEEKS TO 129 WEEKS			
	A-	15-36 WEEKS EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS
Current Offense Category	B +	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS
	B	LOCAL SANCTIONS (LS)	15-36 WEEKS		52-65 WEEKS

C +	LS						15-36 WEEKS
C	LS						15-36 WEEKS
			Local Sanctions:				
			0 to 30 Days				
D +	LS		0 to 12 Months Community Supervision				
			0 to 150 Hours Community Restitution				
D	LS		\$0 to \$500 Fine				
E	LS						
		0	1	2	3	4	
						or more	
		PRIOR ADJUDICATIONS					

NOTE: References in the grid to days or weeks mean periods of confinement.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

- (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 B
SUSPENDED DISPOSITION ALTERNATIVE**

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender is:

- (a) Adjudicated of an A + offense;
- (b) Fourteen years of age or older and is adjudicated of one or more of the following offenses:
 - (i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

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).

NEW SECTION. Sec. 4. (1) The sex offender policy board, as created by chapter . . . (Substitute Senate Bill No. 6596), Laws of 2008, shall review and make recommendations for changes to the statutory requirements relating to sex offender and kidnapping offender registration and notification. The review and recommendations shall include, but are not limited to:

(a) The appropriate class of felony and sentencing designations for a conviction of the failure to register;

(b) The appropriate groups and classes of adult offenders who should be required to register;

(c) The appropriate groups and classes of juvenile offenders who should be required to register;

(d) When a sex offender or kidnapping offender should be relieved of registration or notification requirements and the process for termination of those obligations; and

(e) Simplification of the statutory language to allow the department of corrections, law enforcement, and offenders to more easily identify registration and notification requirements.

(2) In formulating its recommendations, the board shall review the experience of other jurisdictions and any available evidence-based research to ensure that its recommendations have the maximum impact on public safety.

(3) The board shall report to the governor and the relevant committees of the legislature no later than November 1, 2009.

NEW SECTION. Sec. 5. Sections 1 through 3 of this act take effect ninety days after adjournment sine die of the 2010 legislative session."

On page 1, line 2 of the title, after "felony;" strike the remainder of the title and insert "amending RCW 13.40.0357; reenacting and amending RCW 9A.44.130 and 9.94A.030; creating a new section; prescribing penalties; 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. 2714 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL
AS SENATE AMENDED

Representatives O'Brien, Pearson and Loomis 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. 2714, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2714, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

SECOND SUBSTITUTE HOUSE BILL NO. 2714, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 11, 2008

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 2791 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 61.34.020 and 1988 c 33 s 4 are each amended to read as follows:

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

(1) (~~"Pattern of equity skimming" means engaging in a least three acts of equity skimming within any three-year period, with at least one of the acts occurring after June 9, 1988.~~

~~(2) "Dwelling" means a single, duplex, triplex, or four-unit family residential building.~~

~~(3) "Person" includes any natural person, corporation, joint stock association, or unincorporated association.~~

~~(4)) An "act of equity skimming" occurs when:~~

(a)(i) A person purchases a dwelling with the representation that the purchaser will pay for the dwelling by assuming the obligation to make payments on existing mortgages, deeds of trust, or real estate

contracts secured by and pertaining to the dwelling, or by representing that such obligation will be assumed; and

(ii) The person fails to make payments on such mortgages, deeds of trust, or real estate contracts as the payments become due, within two years subsequent to the purchase; and

(iii) The person diverts value from the dwelling by either (A) applying or authorizing the application of rents from the dwelling for the person's own benefit or use, or (B) obtaining anything of value from the sale or lease with option to purchase of the dwelling for the person's own benefit or use, or (C) removing or obtaining appliances, fixtures, furnishings, or parts of such dwellings or appurtenances for the person's own benefit or use without replacing the removed items with items of equal or greater value; or

(b)(i) The person purchases a dwelling in a transaction in which all or part of the purchase price is financed by the seller and is (A) secured by a lien which is inferior in priority or subordinated to a lien placed on the dwelling by the purchaser, or (B) secured by a lien on other real or personal property, or (C) without any security; and

(ii) The person obtains a superior priority loan which either (A) is secured by a lien on the dwelling which is superior in priority to the lien of the seller, but not including a bona fide assumption by the purchaser of a loan existing prior to the time of purchase, or (B) creating any lien or encumbrance on the dwelling when the seller does not hold a lien on the dwelling; and

(iii) The person fails to make payments or defaults on the superior priority loan within two years subsequent to the purchase; and

(iv) The person diverts value from the dwelling by applying or authorizing any part of the proceeds from such superior priority loan for the person's own benefit or use.

(2) "Distressed home" means either:

(a) A dwelling that is in danger of foreclosure or at risk of loss due to nonpayment of taxes; or

(b) A dwelling that is in danger of foreclosure or that is in the process of being foreclosed due to a default under the terms of a mortgage.

(3) "Distressed home consultant" means a person who:

(a) Solicits or contacts a distressed homeowner in writing, in person, or through any electronic or telecommunications medium and makes a representation or offer to perform any service that the person represents will:

(i) Stop, enjoin, delay, void, set aside, annul, stay, or postpone a foreclosure sale;

(ii) Obtain forbearance from any servicer, beneficiary, or mortgagee;

(iii) Assist the distressed homeowner to exercise a right of reinstatement provided in the loan documents or to refinance a loan that is in foreclosure or is in danger of foreclosure;

(iv) Obtain an extension of the period within which the distressed homeowner may reinstate the distressed homeowner's obligation or extend the deadline to object to a ratification;

(v) Obtain a waiver of an acceleration clause contained in any promissory note or contract secured by a mortgage on a distressed home or contained in the mortgage;

(vi) Assist the distressed homeowner to obtain a loan or advance of funds;

(vii) Save the distressed homeowner's residence from foreclosure;

(viii) Avoid or ameliorate the impairment of the distressed homeowner's credit resulting from the recording of a notice of trustee sale, the filing of a petition to foreclose, or the conduct of a foreclosure sale;

(ix) Purchase or obtain an option to purchase the distressed homeowner's residence within twenty days of an advertised or docketed foreclosure sale;

(x) Arrange for the distressed homeowner to become a lessee or tenant entitled to continue to reside in the distressed homeowner's residence;

(xi) Arrange for the distressed homeowner to have an option to repurchase the distressed homeowner's residence; or

(xii) Engage in any documentation, grant, conveyance, sale, lease, trust, or gift by which the distressed homeowner clogs the distressed homeowner's equity of redemption in the distressed homeowner's residence; or

(b) Systematically contacts owners of property that court records, newspaper advertisements, or any other source demonstrate are in foreclosure or are in danger of foreclosure.

"Distressed home consultant" does not mean a financial institution that the distressed homeowner is a customer of, a nonprofit credit counseling service, or a licensed attorney.

(4) "Distressed home consulting transaction" means an agreement between a distressed homeowner and a distressed home consultant in which the distressed home consultant represents or offers to perform any of the services enumerated in subsection (3)(a) of this section.

(5) "Distressed home conveyance" means a transaction in which:

(a) A distressed homeowner transfers an interest in the distressed home to a distressed home purchaser;

(b) The distressed home purchaser allows the distressed homeowner to occupy the distressed home; and

(c) The distressed home purchaser or a person acting in participation with the distressed home purchaser conveys or promises to convey the distressed home to the distressed homeowner, provides the distressed homeowner with an option to purchase the distressed home at a later date, or promises the distressed homeowner an interest in, or portion of, the proceeds of any resale of the distressed home.

(6) "Distressed home purchaser" means any person who acquires an interest in a distressed home under a distressed home conveyance. "Distressed home purchaser" includes a person who acts in joint venture or joint enterprise with one or more distressed home purchasers in a distressed home conveyance. A financial institution is not a distressed home purchaser.

(7) "Distressed homeowner" means an owner of a distressed home.

(8) "Dwelling" means a single, duplex, triplex, or four-unit family residential building.

(9) "Financial institution" means any federally or state chartered bank or trust company, savings bank or savings and loan association, or credit union.

(10) "Homeowner" means a person who owns and occupies a dwelling as his or her primary residence, whether or not his or her ownership interest is encumbered by a mortgage, deed of trust, or other lien.

(11) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold, the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed home consulting transaction.

(12) "Mortgage" means a mortgage, mortgage deed, deed of trust, security agreement, or other instrument securing a mortgage loan and constituting a lien on or security interest in housing.

(13) "Nonprofit credit counseling service" means a nonprofit organization described under section 501(c)(3) of the internal revenue code, or similar successor provisions, that is licensed or certified by any federal, state, or local agency.

(14) "Pattern of equity skimming" means engaging in at least three acts of equity skimming within any three-year period, with at least one of the acts occurring after June 9, 1988.

(15) "Person" includes any natural person, corporation, joint stock association, or unincorporated association.

(16) "Resale" means a bona fide market sale of the distressed home subject to the distressed home conveyance by the distressed home purchaser to an unaffiliated third party.

(17) "Resale price" means the gross sale price of the distressed home on resale.

NEW SECTION. Sec. 2. (1) A distressed home consulting transaction must:

(a) Be in writing in at least twelve-point font;

(b) Be in the same language as principally used by the distressed home consultant to describe his or her services to the distressed homeowner. If the agreement is written in a language other than English, the distressed home consultant shall cause the agreement to be translated into English and shall deliver copies of both the original and English language versions to the distressed homeowner at the time of execution and shall keep copies of both versions on file in accordance with subsection (2) of this section. Any ambiguities or inconsistencies between the English language and the original language versions of the written agreement must be strictly construed in favor of the distressed homeowner;

(c) Fully disclose the exact nature of the distressed home consulting services to be provided, including any distressed home conveyance that may be involved and the total amount and terms of any compensation to be received by the distressed home consultant or anyone working in association with the distressed home consultant;

(d) Be dated and signed by the distressed homeowner and the distressed home consultant;

(e) Contain the complete legal name, address, telephone number, fax number, e-mail address, and internet address if any, of the distressed home consultant, and if the distressed home consultant is serving as an agent for any other person, the complete legal name, address, telephone number, fax number, e-mail address, and internet address if any, of the principal; and

(f) Contain the following notice, which must be initialed by the distressed homeowner, in bold face type and in at least fourteen-point font:

"NOTICE REQUIRED BY WASHINGTON LAW

THIS IS AN IMPORTANT LEGAL CONTRACT AND
COULD RESULT IN THE LOSS OF YOUR HOME.

. . . Name of distressed home consultant . . . or anyone working for him or her CANNOT guarantee you that he or she will be able to refinance your home or arrange for you to keep your home. Continue making mortgage payments until refinancing, if applicable, is approved. You should consult with an attorney before signing this contract.

If you sign a promissory note, lien, mortgage, deed of trust, or deed, you could lose your home and be unable to get it back."

(2) At the time of execution, the distressed home consultant shall provide the distressed homeowner with a copy of the written agreement, and the distressed home consultant shall keep a separate copy of the written agreement on file for at least five years following the completion or other termination of the agreement.

(3) This section does not relieve any duty or obligation imposed upon a distressed home consultant by any other law including, but not limited to, the duties of a credit service organization under chapter 19.134 RCW or a person required to be licensed under chapter 19.146 RCW.

NEW SECTION. Sec. 3. A distressed home consultant has a fiduciary relationship with the distressed homeowner, and each distressed home consultant is subject to all requirements for fiduciaries otherwise applicable under state law. A distressed home consultant's fiduciary duties include, but are not limited to, the following:

(1) To act in the distressed homeowner's best interest and in utmost good faith toward the distressed homeowner, and not compromise a distressed homeowner's right or interest in favor of another's right or interest, including a right or interest of the distressed home consultant;

(2) To disclose to the distressed homeowner all material facts of which the distressed home consultant has knowledge that might reasonably affect the distressed homeowner's rights, interests, or ability to receive the distressed homeowner's intended benefit from the residential mortgage loan;

(3) To use reasonable care in performing his or her duties; and

(4) To provide an accounting to the distressed homeowner for all money and property received from the distressed homeowner.

NEW SECTION. Sec. 4. (1) A person may not induce or attempt to induce a distressed homeowner to waive his or her rights under this chapter.

(2) Any waiver by a homeowner of the provisions of this chapter is void and unenforceable as contrary to public policy.

NEW SECTION. Sec. 5. A distressed home purchaser shall enter into a distressed home reconveyance in the form of a written contract. The contract must be written in at least twelve-point boldface type in the same language principally used by the distressed home purchaser and distressed homeowner to negotiate the sale of the distressed home, and must be fully completed, signed, and dated by the distressed homeowner and distressed home purchaser before the execution of any instrument of conveyance of the distressed home.

NEW SECTION. Sec. 6. The contract required in section 5 of this act must contain the entire agreement of the parties and must include the following:

(1) The name, business address, and telephone number of the distressed home purchaser;

- (2) The address of the distressed home;
- (3) The total consideration to be provided by the distressed home purchaser in connection with or incident to the sale;
- (4) A complete description of the terms of payment or other consideration including, but not limited to, any services of any nature that the distressed home purchaser represents that he or she will perform for the distressed homeowner before or after the sale;
- (5) The time at which possession is to be transferred to the distressed home purchaser;
- (6) A complete description of the terms of any related agreement designed to allow the distressed homeowner to remain in the home, such as a rental agreement, repurchase agreement, or lease with option to buy;
- (7) A complete description of the interest, if any, the distressed homeowner maintains in the proceeds of, or consideration to be paid upon, the resale of the distressed home;
- (8) A notice of cancellation as provided in section 8 of this act; and
- (9) The following notice in at least fourteen-point boldface type if the contract is printed, or in capital letters if the contract is typed, and completed with the name of the distressed home purchaser, immediately above the statement required in section 8 of this act:

"NOTICE REQUIRED BY WASHINGTON LAW

Until your right to cancel this contract has ended, (Name) or anyone working for (Name) CANNOT ask you to sign or have you sign any deed or any other document."

The contract required by this section survives delivery of any instrument of conveyance of the distressed home and has no effect on persons other than the parties to the contract.

NEW SECTION. Sec. 7. (1) In addition to any other right of rescission, a distressed homeowner has the right to cancel any contract with a distressed home purchaser until midnight of the fifth business day following the day on which the distressed homeowner signs a contract that complies with this chapter or until 8:00 a.m. on the last day of the period during which the distressed homeowner has a right of redemption, whichever occurs first.

(2) Cancellation occurs when the distressed homeowner delivers to the distressed home purchaser, by any means, a written notice of cancellation to the address specified in the contract.

(3) A notice of cancellation provided by the distressed homeowner is not required to take the particular form as provided with the contract.

(4) Within ten days following the receipt of a notice of cancellation under this section, the distressed home purchaser shall return without condition any original contract and any other documents signed by the distressed homeowner.

NEW SECTION. Sec. 8. (1) The contract required in section 5 of this act must contain, in immediate proximity to the space reserved for the distressed homeowner's signature, the following conspicuous statement in at least fourteen-point boldface type if the contract is printed, or in capital letters if the contract is typed:

"You may cancel this contract for the sale of your house without any penalty or obligation at any time before

.....
(Date and time of day)

See the attached notice of cancellation form for an explanation of this right."

The distressed home purchaser shall accurately enter the date and time of day on which the cancellation right ends.

(2) The contract must be accompanied by a completed form in duplicate, captioned "NOTICE OF CANCELLATION" in twelve-point boldface type if the contract is printed, or in capital letters if the contract is typed, followed by a space in which the distressed home purchaser shall enter the date on which the distressed homeowner executes any contract. This form must be attached to the contract, must be easily detachable, and must contain in at least twelve-point type if the contract is printed, or in capital letters if the contract is typed, the following statement written in the same language as used in the contract:

"NOTICE OF CANCELLATION

.....
(Enter date contract signed)

You may cancel this contract for the sale of your house, without any penalty or obligation, at any time before

.....
(Enter date and time of day)

To cancel this transaction, personally deliver a signed and dated copy of this cancellation notice to

.....
(Name of purchaser)
at

.....
(Street address of purchaser's place of business)

NOT LATER THAN

.....
(Enter date and time of day)

I hereby cancel this transaction.

.....(Date)

.....
(Seller's signature)"

(3) The distressed home purchaser shall provide the distressed homeowner with a copy of the contract and the attached notice of cancellation at the time the contract is executed by all parties.

(4) The five-business-day period during which the distressed homeowner may cancel the contract must not begin to run until all parties to the contract have executed the contract and the distressed home purchaser has complied with this section.

NEW SECTION. Sec. 9. (1) Any provision in a contract that attempts or purports to require arbitration of any dispute arising under this chapter is void at the option of the distressed homeowner.

(2) This section applies to any contract entered into on or after the effective date of this act.

NEW SECTION. Sec. 10. A distressed home purchaser shall not:

(1) Enter into, or attempt to enter into, a distressed home conveyance with a distressed homeowner unless the distressed home purchaser verifies and can demonstrate that the distressed homeowner has a reasonable ability to pay for the subsequent conveyance of an interest back to the distressed homeowner. In the case of a lease with an option to purchase, payment ability also includes the reasonable ability to make the lease payments and purchase the property within the term of the option to purchase. An evaluation of a distressed homeowner's reasonable ability to pay includes debt to income ratios, fair market value of the distressed home, and the distressed homeowner's payment and credit history. There is a rebuttable presumption that the distressed home purchaser has not verified a distressed homeowner's reasonable ability to pay if the distressed home purchaser has not obtained documentation of assets, liabilities, and income, other than an undocumented statement, of the distressed homeowner;

(2) Fail to either:

(a) Ensure that title to the distressed home has been reconveyed to the distressed homeowner; or

(b) Make payment to the distressed homeowner so that the distressed homeowner has received consideration in an amount of at least eighty-two percent of the fair market value of the property as of the date of the eviction or voluntary relinquishment of possession of the distressed home by the distressed homeowner. For the purposes of this subsection (2)(b), the following applies:

(i) There is a rebuttable presumption that an appraisal by a person licensed or certified by an agency of the federal government or this state to appraise real estate constitutes the fair market value of the distressed home;

(ii) "Consideration" means any payment or thing of value provided to the distressed homeowner, including unpaid rent owed by the distressed homeowner before the date of eviction or voluntary relinquishment of the distressed home, reasonable costs paid to independent third parties necessary to complete the distressed home conveyance transaction, the payment of money to satisfy a debt or legal obligation of the distressed homeowner, or the reasonable cost of repairs for damage to the distressed home caused by the distressed homeowner. "Consideration" does not include amounts imputed as a down payment or fee to the distressed home purchaser or a person acting in participation with the distressed home purchaser;

(3) Enter into repurchase or lease terms as part of the distressed home conveyance that are unfair or commercially unreasonable, or engage in any other unfair or deceptive acts or practices;

(4) Represent, directly or indirectly, that (a) the distressed home purchaser is acting as an advisor or consultant, (b) the distressed home purchaser is acting on behalf of or in the interests of the distressed homeowner, or (c) the distressed home purchaser is assisting the distressed homeowner to save the distressed home, buy time, or use other substantially similar language;

(5) Misrepresent the distressed home purchaser's status as to licensure or certification;

(6) Perform any of the following until after the time during which the distressed homeowner may cancel the transaction has expired:

(a) Accept from any distressed homeowner an execution of, or induce any distressed homeowner to execute, any instrument of conveyance of any interest in the distressed home;

(b) Record with the county auditor any document, including any instrument of conveyance, signed by the distressed homeowner; or

(c) Transfer or encumber or purport to transfer or encumber any interest in the distressed home;

(7) Fail to reconvey title to the distressed home when the terms of the distressed home conveyance contract have been fulfilled;

(8) Enter into a distressed home conveyance where any party to the transaction is represented by a power of attorney;

(9) Fail to extinguish or assume all liens encumbering the distressed home immediately following the conveyance of the distressed home;

(10) Fail to close a distressed home conveyance in person before an independent third party who is authorized to conduct real estate closings within the state.

Sec. 11. RCW 61.34.040 and 1988 c 33 s 3 are each amended to read as follows:

(1) In addition to the criminal penalties provided in RCW 61.34.030, the legislature finds ((and declares)) that ((equity skimming substantially affects)) the practices covered by this chapter are matters vitally affecting the public interest((- The commission by any person of an act of equity skimming or a pattern of equity skimming is an unfair or deceptive act or practice and unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020)) 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 method of competition for the purpose of applying chapter 19.86 RCW.

(2) In a private right of action under chapter 19.86 RCW for a violation of this chapter, the court may double or triple the award of damages pursuant to RCW 19.86.090, subject to the statutory limit. If, however, the court determines that the defendant acted in bad faith, the limit for doubling or tripling the award of damages may be increased, but shall not exceed one hundred thousand dollars. Any claim for damages brought under this chapter must be commenced within four years after the date of the alleged violation.

(3) The remedies provided in this chapter are cumulative and do not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law. An action under this chapter shall not affect the rights in the distressed home held by a distressed home purchaser for value under this chapter or other applicable law.

Sec. 12. RCW 59.18.030 and 1998 c 276 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Distressed home" has the same meaning as in RCW 61.34.020.

(2) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(3) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(4) " Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single family residences and units of multiplexes, apartment buildings, and mobile homes.

((2)) (5) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

- (i) The mortgagee;
- (ii) A person licensed or required to be licensed under chapter 19.134 RCW;
- (iii) A person licensed or required to be licensed under chapter 19.146 RCW;
- (iv) A person licensed or required to be licensed under chapter 18.85 RCW;
- (v) An attorney-at-law;
- (vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or
- (vii) Any other party to a distressed property conveyance.

(6) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the landlord.

~~((3))~~ (7) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(8) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

~~((4))~~ (9) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

~~((5))~~ (10) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

~~((6))~~ (11) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

~~((7))~~ (12) A "single family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

~~((8))~~ (13) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

~~((9))~~ (14) "Reasonable attorney's fees", where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

~~((10))~~ (15) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

~~((11))~~ (16) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

NEW SECTION. Sec. 13. A new section is added to chapter 59.18 RCW to read as follows:

In an unlawful detainer action involving property that was a distressed home:

(1) The plaintiff shall disclose to the court whether the defendant previously held title to the property that was a distressed home, and explain how the plaintiff came to acquire title;

(2) A defendant who previously held title to the property that was a distressed home shall not be required to escrow any money pending trial when a material question of fact exists as to whether the plaintiff acquired title from the defendant directly or indirectly through a distressed home conveyance;

(3) There must be both an automatic stay of the action and a consolidation of the action with a pending or subsequent quiet title action when a defendant claims that the plaintiff acquired title to the property through a distressed home conveyance.

NEW SECTION. Sec. 14. Sections 2 through 10 of this act are each added to chapter 61.34 RCW."

On page 1, line 1 of the title, after "conveyances;" strike the remainder of the title and insert "amending RCW 61.34.020, 61.34.040, and 59.18.030; adding new sections to chapter 61.34 RCW; adding a new section to chapter 59.18 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. 2791 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Lantz and Rodne 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. 2791, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2791, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives 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, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

HOUSE BILL NO. 2791, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

POINT OF PERSONAL PRIVILEGE

Representative Jarrett recognized the good lady from the 26th District's last floor speech before retiring after six terms in the House of Representatives, and asked the chamber to acknowledge her.

MESSAGE FROM THE SENATE

March 11, 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 concurred in the Senate amendment to SECOND SUBSTITUTE HOUSE BILL NO. 2822 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Kagi 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 Second Substitute House Bill No. 2822, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 2822, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko,

Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

SECOND SUBSTITUTE HOUSE BILL NO. 2822, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 11, 2008

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 2585 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 19.290.010 and 2007 c 377 s 1 are each amended to read as follows:

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

(1) "Commercial account" means a relationship between a scrap metal business and a commercial enterprise that is ongoing and properly documented under RCW 19.290.030.

(2) "Commercial enterprise" means a corporation, partnership, limited liability company, association, state agency, political subdivision of the state, public corporation, or any other legal or commercial entity.

(3) "Commercial metal property" means: Utility access covers; street light poles and fixtures; road and bridge guardrails; highway or street signs; water meter covers; traffic directional and control signs; traffic light signals; any metal property marked with the name of a commercial enterprise, including but not limited to a telephone, commercial mobile radio services, cable, electric, water, natural gas, or other utility, or railroad; unused or undamaged building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts, or gutters; aluminum or stainless steel fence panels made from one inch tubing, forty-two inches high with four-inch gaps; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; or agricultural irrigation wheels, sprinkler heads, and pipes.

(4) "Nonferrous metal property" means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys. "Nonferrous metal property" does not include precious metals.

(5) "Precious metals" means gold, silver, and platinum.

(6) "Private metal property" means catalytic converters, either singly or in bundles, bales, or bulk, that have been removed from vehicles for sale as a specific commodity.

(7) "Record" means a paper, electronic, or other method of storing information.

((7)) (8) "Scrap metal business" means a scrap metal supplier, scrap metal recycling center, and scrap metal processor.

((8)) (9) "Scrap metal processor" means a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of altering the metal in preparation for its use as feedstock in the manufacture of new products, and that

maintains a hydraulic bailer, shearing device, or shredding device for recycling.

~~((9))~~ (10) "Scrap metal recycling center" means a person with a current business license that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of aggregation and sale to another scrap metal business and that maintains a fixed place of business within the state.

~~((10))~~ (11) "Scrap metal supplier" means a person with a current business license that is engaged in the business of purchasing or receiving private metal property or nonferrous metal property for the purpose of aggregation and sale to a scrap metal recycling center or scrap metal processor and that does not maintain a fixed business location in the state.

~~((11))~~ (12) "Transaction" means a pledge, or the purchase of, or the trade of any item of private metal property or nonferrous metal property by a scrap metal business from a member of the general public. "Transaction" does not include donations or the purchase or receipt of private metal property or nonferrous metal property by a scrap metal business from a commercial enterprise, from another scrap metal business, or from a duly authorized employee or agent of the commercial enterprise or scrap metal business.

Sec. 2. RCW 19.290.020 and 2007 c 377 s 2 are each amended to read as follows:

(1) At the time of a transaction, every scrap metal business doing business in this state shall produce wherever that business is conducted an accurate and legible record of each transaction involving private metal property or nonferrous metal property. This record must be written in the English language, documented on a standardized form or in electronic form, and contain the following information:

- (a) The signature of the person with whom the transaction is made;
- (b) The time, date, location, and value of the transaction;
- (c) The name of the employee representing the scrap metal business in the transaction;
- (d) The name, street address, and telephone number of the person with whom the transaction is made;
- (e) The license plate number and state of issuance of the license plate on the motor vehicle used to deliver the private metal property or nonferrous metal property subject to the transaction;
- (f) A description of the motor vehicle used to deliver the private metal property or nonferrous metal property subject to the transaction;
- (g) The current driver's license number or other government-issued picture identification card number of the seller or a copy of the seller's government-issued picture identification card; and
- (h) A description of the predominant types of private metal property or nonferrous metal property subject to the transaction, including the property's classification code as provided in the institute of scrap recycling industries scrap specifications circular, 2006, and weight, quantity, or volume.

(2) For every transaction that involves private metal property or nonferrous metal property, every scrap metal business doing business in the state shall require the person with whom a transaction is being made to sign a declaration. The declaration may be included as part of the transactional record required under subsection (1) of this section, or on a receipt for the transaction. The declaration must state substantially the following:

"I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not to the best of my knowledge stolen property."

The declaration must be signed and dated by the person with whom the transaction is being made. An employee of the scrap metal business must witness the signing and dating of the declaration and sign the declaration accordingly before any transaction may be consummated.

(3) The record and declaration required under this section must be open to the inspection of any commissioned law enforcement officer of the state or any of its political subdivisions at all times during the ordinary hours of business, or at reasonable times if ordinary hours of business are not kept, and must be maintained wherever that business is conducted for one year following the date of the transaction.

Sec. 3. RCW 19.290.030 and 2007 c 377 s 3 are each amended to read as follows:

(1) No scrap metal business may enter into a transaction to purchase or receive private metal property or nonferrous metal property from any person who cannot produce at least one piece of current government-issued picture identification, including a valid driver's license or identification card issued by any state.

(2) No scrap metal business may purchase or receive private metal property or commercial metal property unless the seller: (a) Has a commercial account with the scrap metal business; (b) can prove ownership of the property by producing written documentation that the seller is the owner of the property; or (c) can produce written documentation that the seller is an employee or agent authorized to sell the property on behalf of a commercial enterprise.

(3) No scrap metal business may enter into a transaction to purchase or receive metallic wire that was burned in whole or in part to remove insulation unless the seller can produce written proof to the scrap metal business that the wire was lawfully burned.

(4) No transaction involving private metal property or nonferrous metal property valued at greater than thirty dollars may be made in cash or with any person who does not provide a street address under the requirements of RCW 19.290.020. For transactions valued at greater than thirty dollars, the person with whom the transaction is being made may only be paid by a nontransferable check, mailed by the scrap metal business to a street address provided under RCW 19.290.020, no earlier than ten days after the transaction was made. A transaction occurs on the date provided in the record required under RCW 19.290.020.

(5) No scrap metal business may purchase or receive beer kegs from anyone except a manufacturer of beer kegs or licensed brewery.

Sec. 4. RCW 19.290.040 and 2007 c 377 s 4 are each amended to read as follows:

(1) Every scrap metal business must create and maintain a permanent record with a commercial enterprise, including another scrap metal business, in order to establish a commercial account. That record, at a minimum, must include the following information:

- (a) The full name of the commercial enterprise or commercial account;
- (b) The business address and telephone number of the commercial enterprise or commercial account; and
- (c) The full name of the person employed by the commercial enterprise who is authorized to deliver private metal property, nonferrous metal property, and commercial metal property to the scrap metal business.

(2) The record maintained by a scrap metal business for a commercial account must document every purchase or receipt of private metal property, nonferrous metal property₂, and commercial metal property from the commercial enterprise. The documentation must include, at a minimum, the following information:

(a) The time, date, and value of the property being purchased or received;

(b) A description of the predominant types of property being purchased or received; and

(c) The signature of the person delivering the property to the scrap metal business.

Sec. 5. RCW 19.290.050 and 2007 c 377 s 5 are each amended to read as follows:

(1) Upon request by any commissioned law enforcement officer of the state or any of its political subdivisions, every scrap metal business shall furnish a full, true, and correct transcript of the records from the purchase or receipt of private metal property, nonferrous metal property₂, and commercial metal property involving a specific individual, vehicle, or item of private metal property, nonferrous metal property₂, or commercial metal property. This information may be transmitted within a specified time of not less than two business days to the applicable law enforcement agency electronically, by facsimile transmission, or by modem or similar device, or by delivery of computer disk subject to the requirements of, and approval by, the chief of police or the county's chief law enforcement officer.

(2) If the scrap metal business has good cause to believe that any private metal property, nonferrous metal property₂, or commercial metal property in his or her possession has been previously lost or stolen, the scrap metal business shall promptly report that fact to the applicable commissioned law enforcement officer of the state, the chief of police, or the county's chief law enforcement officer, together with the name of the owner, if known, and the date when and the name of the person from whom it was received.

Sec. 6. RCW 19.290.060 and 2007 c 377 s 6 are each amended to read as follows:

(1) Following notification, either verbally or in writing, from a commissioned law enforcement officer of the state or any of its political subdivisions that an item of private metal property, nonferrous metal property₂, or commercial metal property has been reported as stolen, a scrap metal business shall hold that property intact and safe from alteration, damage, or commingling, and shall place an identifying tag or other suitable identification upon the property. The scrap metal business shall hold the property for a period of time as directed by the applicable law enforcement agency up to a maximum of ten business days.

(2) A commissioned law enforcement officer of the state or any of its political subdivisions shall not place on hold any item of private metal property, nonferrous metal property₂, or commercial metal property unless that law enforcement agency reasonably suspects that the property is a lost or stolen item. Any hold that is placed on the property must be removed within ten business days after the property on hold is determined not to be stolen or lost and the property must be returned to the owner or released.

Sec. 7. RCW 19.290.070 and 2007 c 377 s 7 are each amended to read as follows:

It is a gross misdemeanor under chapter 9A.20 RCW for:

(1) Any person to deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of

private metal property, nonferrous metal property₂, or commercial metal property in order to deceive a scrap metal business;

(2) Any scrap metal business to enter into a transaction to purchase or receive any private metal property, nonferrous metal property₂, or commercial metal property where the manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon the property have been deliberately and conspicuously removed, altered, or obliterated;

(3) Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this chapter;

(4) Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property₂, or commercial metal property from any person under the age of eighteen years or any person who is discernibly under the influence of intoxicating liquor or drugs;

(5) Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property₂, or commercial metal property with anyone whom the scrap metal business has been informed by a law enforcement agency to have been convicted of a crime involving drugs, burglary, robbery, theft, or possession of or receiving stolen property, manufacturing, delivering, or possessing with intent to deliver methamphetamine, or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine within the past ten years whether the person is acting in his or her own behalf or as the agent of another;

(6) Any person to sign the declaration required under RCW 19.290.020 knowing that the private metal property or nonferrous metal property subject to the transaction is stolen. The signature of a person on the declaration required under RCW 19.290.020 constitutes evidence of intent to defraud a scrap metal business if that person is found to have known that the private metal property or nonferrous metal property subject to the transaction was stolen;

(7) Any scrap metal business to possess private metal property or commercial metal property that was not lawfully purchased or received under the requirements of this chapter; or

(8) Any scrap metal business to engage in a series of transactions valued at less than thirty dollars with the same seller for the purposes of avoiding the requirements of RCW 19.290.030(4).

Sec. 8. RCW 19.290.090 and 2007 c 377 s 9 are each amended to read as follows:

The provisions of this chapter do not apply to transactions conducted by the following:

(1) Motor vehicle dealers licensed under chapter 46.70 RCW;

(2) ~~((Vehicle wreckers or hulk haulers licensed under chapter 46.79 or 46.80 RCW;~~

~~—(3))~~ Persons in the business of operating an automotive repair facility as defined under RCW 46.71.011; and

~~((4))~~ (3) Persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

Sec. 9. 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, private metal property, or nonferrous metal property, as defined in RCW 19.290.010."

On page 1, line 1 of the title, after "provisions;" strike the remainder of the title and insert "amending RCW 19.290.010, 19.290.020, 19.290.030, 19.290.040, 19.290.050, 19.290.060, 19.290.070, 19.290.090, and 9.94A.535; 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. 2585 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Morrell 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. 2585, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2585, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

SUBSTITUTE HOUSE BILL NO. 2585, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 11, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 3329 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the state's public four-year institutions and the higher education coordinating board have made progress in developing a process to create a single prioritized list of capital project requests as required under RCW 28B.76.220. The legislature also finds that this process requires further refinement to achieve the state's policy objectives as outlined in the higher education coordinating board's strategic master plan for higher education in Washington. The legislature further finds the goal of creating additional, innovative facilities and programs that meet the learning needs of students throughout the state in a timely and cost-effective fashion requires a new approach to facility prioritization that emphasizes strategic planning. The legislature therefore intends to establish a new process for prioritizing capital project requests by the four-year institutions that utilizes the expertise and government-wide perspective of the office of financial management, and that is based upon the model that has been used successfully by the community and technical college system. The new process must emphasize objective analysis, a statewide perspective, and a strategic balance among facility preservation, new construction, and innovative delivery mechanisms. The legislature further recognizes that institutions of higher education are likely to require substantial new capital investments in order to continue to provide a wide range of high quality programs to students and the community, and that the state's ability to provide such resources is constrained by increasing capital expenditure needs within the K-12, public safety, social services, and community economic development arenas. The legislature therefore intends to identify and assess potential alternative means for increasing the capacity of public higher education institutions to meet the demands of the twenty-first century.

NEW SECTION. Sec. 2. (1) By October 15th of each even-numbered year, the office of financial management shall complete an objective analysis and scoring of all capital budget projects proposed by the public four-year institutions of higher education and submit the results of the scoring process to the legislative fiscal committees, the higher education coordinating board, and the four-year institutions, except that, for 2008, the office of financial management shall complete the objective analysis and scoring by November 1st. Each project must be reviewed and scored within one of the following categories, according to the project's principal purpose. Each project may be scored in only one category. The categories are:

(a) Access-related projects to accommodate enrollment growth at main and branch campuses, at existing or new university centers, or through distance learning. Growth projects should provide significant additional student capacity. Proposed projects must demonstrate that they are based on solid enrollment demand projections, more cost-effectively provide enrollment access than alternatives such as university centers and distance learning, and make cost-effective use of existing and proposed new space;

(b) Projects that replace failing permanent buildings or renovate facilities to restore building life and upgrade space to meet current program requirements. Facilities that cannot be economically renovated are considered replacement projects. Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life. New space may be programmed for the same or a different use than

the space being replaced or renovated and may include additions to improve access and enhance the relationship of program or support space;

(c) Major stand-alone campus infrastructure projects;

(d) Projects that promote economic growth and innovation through expanded research activity. The acquisition and installation of specialized equipment is authorized under this category; and

(e) Other project categories as determined by the office of financial management in consultation with the legislative fiscal committees.

(2) The office of financial management, in consultation with the legislative fiscal committees and the joint legislative audit and review committee, shall establish a scoring system and process for each four-year project category that is based on the framework used in the community and technical college system of prioritization. Staff from the state board for community and technical colleges, the higher education coordinating board, and the four-year institutions shall provide technical assistance on the development of a scoring system and process.

(3) The office of financial management shall consult with the legislative fiscal committees in the scoring of four-year institution project proposals, and may also solicit participation by the joint legislative audit and review committee and independent experts.

(a) For each four-year project category, the scoring system must, at a minimum, include an evaluation of enrollment trends, reasonableness of cost, the ability of the project to enhance specific strategic master plan goals, age and condition of the facility if applicable, and impact on space utilization.

(b) Each four-year project category may include projects at the predesign, design, or construction funding phase.

(c) To the extent possible, the objective analysis and scoring system of all capital budget projects shall occur within the context of any and all performance agreements between the office of financial management and the governing board of a public, four-year institution of higher education that aligns goals, priorities, desired outcomes, flexibility, institutional mission, accountability, and levels of resources.

(4) In evaluating and scoring four-year institution projects, the office of financial management shall take into consideration project schedules that result in realistic, balanced, and predictable expenditure patterns over the ensuing three biennia.

(5) The office of financial management shall distribute common definitions, the scoring system, and other information required for the project proposal and scoring process as part of its biennial budget instructions, except that, for the 2009-2011 budget development cycle, this information must be distributed by July 1, 2008. The office of financial management, in consultation with the legislative fiscal committees and the joint legislative audit and review committee, shall develop common definitions that four-year institutions must use in developing their project proposals and lists under this section.

(6) In developing any scoring system for capital projects proposed by the four-year institutions, the office of financial management:

(a) Shall be provided with all required information by the four-year institutions as deemed necessary by the office of financial management;

(b) May utilize independent services to verify, sample, or evaluate information provided to the office of financial management by the four-year institutions; and

(c) Shall have full access to all data maintained by the higher education coordinating board and the joint legislative audit and

review committee concerning the condition of higher education facilities.

(7) By August 15th of each even-numbered year, beginning in 2008, each public four-year higher education institution shall prepare and submit prioritized lists of the individual projects proposed by the institution for the ensuing six-year period in each category. On a pilot basis, the office of financial management shall require one research university to prepare two separate prioritized lists for each category, one for the main campus, and one covering all of the institution's branch campuses. The office of financial management shall report to the legislative fiscal committees by December 1, 2009, on the effect of this pilot project on capital project financing for all branch campuses. The lists must be submitted to the office of financial management and the legislative fiscal committees. The four-year institutions may aggregate minor works project proposals by primary purpose for ranking purposes. Proposed minor works projects must be prioritized within the aggregated proposal, and supporting documentation, including project descriptions and cost estimates, must be provided to the office of financial management and the legislative fiscal committees.

NEW SECTION. Sec. 3. The office of financial management shall submit a higher education capital facility financing study to the governor and the appropriate legislative fiscal committees by December 1, 2008. In designing and conducting the study, the office of financial management shall consult with legislative and fiscal committee leadership, the department of revenue, the state investment board, the higher education coordinating board, the state board for community and technical colleges, and the public four-year institutions of higher education. The study must include:

(1) A review of the methods that are used to fund higher education facility expansion and improvements in other states, with particular emphasis on Washington's global challenge states, and the relative portions of such expenditures that are borne by students, state taxpayers, federal grants, and private contributions;

(2) An examination of alternatives for reducing facility construction and maintenance expenditures per student through strategies such as expansion of distance learning opportunities, increased scheduling of classes during evenings and weekends, the establishment of expected cost benchmarks by facility type, and other means; and

(3) An assessment of the strengths and weaknesses of potential new revenue sources that might be applied to the funding of higher education facilities. These alternative sources must include, but not be limited to, adjusting student fees to support a larger share of the cost of such facilities, bonding against student fee revenues, utilizing local tax revenues to support local higher education capital needs, promoting business participation in the financing of programs strongly linked to area economic development, and other means.

Sec. 4. RCW 28B.76.210 and 2007 c 458 s 202 are each amended to read as follows:

(1) The board shall collaborate with the four-year institutions including the council of presidents, the community and technical college system, and when appropriate the workforce training and education coordinating board, the superintendent of public instruction, and the independent higher educational institutions to identify budget priorities and levels of funding for higher education, including the two and four-year institutions of higher education and state financial aid programs. It is the intent of the legislature that recommendations from the board reflect not merely the sum of

budget requests from multiple institutions, but prioritized funding needs for the overall system of higher education.

(2) By December of each odd-numbered year, the board shall distribute guidelines which outline the board's fiscal priorities to the institutions and the state board for community and technical colleges.

(a) The institutions and the state board for community and technical colleges shall submit an outline of their proposed operating budgets to the board no later than July 1st of each even-numbered year. Pursuant to guidelines developed by the board, operating budget outlines submitted by the institutions and the state board for community and technical colleges after January 1, 2007, shall include all policy changes and enhancements that will be requested by the institutions and the state board for community and technical colleges in their respective biennial budget requests. Operating budget outlines shall include a description of each policy enhancement, the dollar amount requested, and the fund source being requested.

(b) Capital budget outlines for the two-year institutions shall be submitted by August 15th of each even-numbered year, and shall include the prioritized ranking of the capital projects being requested ~~((by two-year and four-year institutions, respectively)),~~ a description of each capital project, and the amount and fund source being requested ~~((, shall be included for each capital project appearing in the prioritized ranking)).~~

(c) Capital budget outlines for the four-year institutions must be submitted by August 15th of each even-numbered year, and must include: The institutions' priority ranking of the project; the capital budget category within which the project will be submitted to the office of financial management in accordance with section 2 of this act; a description of each capital project; and the amount and fund source being requested.

(d) The office of financial management shall reference these reporting requirements in its budget instructions.

(3) The board shall review and evaluate the operating and capital budget requests from four-year institutions and the community and technical college system based on how the requests align with the board's budget priorities, the missions of the institutions, and the statewide strategic master plan for higher education under RCW 28B.76.200.

(4) The board shall submit recommendations on the proposed ~~((budgets))~~ operating budget and ((on the board's budget)) priorities to the office of financial management ~~((before))~~ by October 1st of each even-numbered year, and to the legislature by January 1st of each odd-numbered year. The board's capital budget recommendations for the community and technical college system and the four-year institutions must be submitted to the office of financial management by November 15th of each even-numbered year and to the legislature by January 1st of each odd-numbered year. The board's recommendations for the four-year institutions must include the relative share of the higher education capital budget that the board recommends be assigned to each project category, as defined in section 2 of this act, and to minor works program and preservation.

(5) Institutions and the state board for community and technical colleges shall submit any supplemental budget requests and revisions to the board at the same time they are submitted to the office of financial management. The board shall submit recommendations on the proposed supplemental budget requests to the office of financial management by November 1st and to the legislature by January 1st.

NEW SECTION. Sec. 5. RCW 28B.76.220 (Prioritized capital project lists for higher education institutions) and 2004 c 275 s 8 & 2003 1st sp.s. c 8 s 2 are each repealed.

NEW SECTION. **Sec. 6.** Section 2 of this act constitutes a new chapter in Title 43 RCW."

On page 1, line 2 of the title, after "requests;" strike the remainder of the title and insert "amending RCW 28B.76.210; adding a new chapter to Title 43 RCW; creating new sections; and repealing RCW 28B.76.220."

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. 3329 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Ormsby and McDonald 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. 3329, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 3329, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 3329, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 11, 2008

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 3360 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.60A.190 and 2007 c 11 s 1 are each amended to read as follows:

(1) The department shall:

(a) Develop and maintain a current list of veteran-owned businesses; and

(b) Make the list available on the department's public web site.

(2) ~~(In order)~~ To qualify as a veteran-owned business, the business must be at least fifty-one percent owned and controlled by:

(a) A veteran as defined in RCW 41.04.007; or

(b) An active or reserve member in any branch of the armed forces of the United States, including the national guard, coast guard, and armed forces reserves.

(3) To participate in the linked deposit program under chapter 43.86A RCW, a veteran-owned business qualified under this section must be certified by the department as a business:

(a) In which the veteran owner possesses and exercises sufficient expertise specifically in the business's field of operation to make decisions governing the long-term direction and the day-to-day operations of the business;

(b) That is organized for profit and performing a commercially useful function; and

(c) That meets the criteria for a small business concern as established under chapter 39.19 RCW.

(4) The department shall create a logo for the purpose of identifying veteran-owned businesses to the public. The department shall put the logo on an adhesive sticker or decal suitable for display in a business window and distribute the stickers or decals to veteran-owned businesses listed with the department.

~~((+))~~ (5)(a) Businesses may submit an application on a form prescribed by the department for inclusion on the list or to apply for certification under this section.

(b) The department must notify the state treasurer of veteran-owned businesses that are no longer certified under this section. The written notification to the state treasurer must contain information regarding the reasons for the decertification and information on financing provided to the veteran-owned business under RCW 43.86A.060.

~~((5))~~ (6) The department may adopt rules necessary to implement this section.

Sec. 2. RCW 43.86A.030 and 2007 c 500 s 1 are each amended to read as follows:

(1) Funds held in public depositaries not as demand deposits as provided in RCW 43.86A.020 and 43.86A.030, shall be available for a time certificate of deposit investment program according to the following formula: The state treasurer shall apportion to all participating depositaries an amount equal to five percent of the three year average mean of general state revenues as certified in accordance with Article VIII, section 1(b) of the state Constitution, or fifty percent of the total surplus treasury investment availability, whichever is less. Within thirty days after certification, those funds

determined to be available according to this formula for the time certificate of deposit investment program shall be deposited in qualified public depositories. These deposits shall be allocated among the participating depositories on a basis to be determined by the state treasurer.

(2) Of all funds available under this section, the state treasurer may use up to one hundred (~~(fifty)~~ seventy-five) million dollars per year (~~(of all funds available under this section)~~) for the purposes of RCW 43.86A.060(2)(c)(i) and up to fifteen million dollars per year for the purposes of RCW 43.86A.060(2)(c)(ii). The amounts made available to these public depositories shall be equal to the amounts of outstanding loans made under RCW 43.86A.060.

(3) The formula so devised shall be a matter of public record giving consideration to, but not limited to deposits, assets, loans, capital structure, investments or some combination of these factors. However, if in the judgment of the state treasurer the amount of allocation for certificates of deposit as determined by this section will impair the cash flow needs of the state treasury, the state treasurer may adjust the amount of the allocation accordingly.

Sec. 3. RCW 43.86A.060 and 2007 c 500 s 2 are each amended to read as follows:

(1) The state treasurer shall establish a linked deposit program for investment of deposits in qualified public depositories. As a condition of participating in the program, qualified public depositories must make qualifying loans as provided in this section. The state treasurer may purchase a certificate of deposit that is equal to the amount of the qualifying loan made by the qualified public depository or may purchase a certificate of deposit that is equal to the aggregate amount of two or more qualifying loans made by one or more qualified public depositories.

(2) Qualifying loans made under this section are those:

(a) Having terms that do not exceed ten years;

(b) Where an individual loan does not exceed one million dollars;

(c)(i) That are made to a minority or women's business enterprise that has received state certification under chapter 39.19 RCW; or

(ii) That are made to a veteran-owned business that has received state certification under RCW 43.60A.190;

(d) Where the interest rate on the loan to the minority or women's business enterprise or veteran-owned business does not exceed an interest rate that is two hundred basis points below the interest rate the qualified public depository would charge for a loan for a similar purpose and a similar term, except that, if the preference given by the state treasurer to the qualified public depository under subsection (3) of this section is less than two hundred basis points, the qualified public depository may reduce the preference given on the loan by an amount that corresponds to the reduction in preference below two hundred basis points given to the qualified public depository; and

(e) Where the points or fees charged at loan closing do not exceed one percent of the loan amount.

(3) In setting interest rates of time certificate of deposits, the state treasurer shall offer rates so that a two hundred basis point preference will be given to the qualified public depository, except that the treasurer shall lower the amount of the preference to ensure that the effective interest rate on the time certificate of deposit is not less than two percent.

(4) Upon notification by the state treasurer that a minority or women's business enterprise is no longer certified under chapter 39.19 RCW or that a veteran-owned business is no longer certified

under RCW 43.60A.190, the qualified public depository shall reduce the amount of qualifying loans by the outstanding balance of the loan made under this section to the minority or women's business enterprise or the veteran-owned business, as applicable.

(5) The office of minority and women's business enterprises has the authority to adopt rules to:

(a) Ensure that when making a qualified loan under the linked deposit program, businesses that have never received a loan under the linked deposit program are given first priority;

(b) Limit the total principal loan amount that any one business receives in qualified loans under the linked deposit program over the lifetime of the businesses;

(c) Limit the total principal loan amount that an owner of one or more businesses receives in qualified loans under the linked deposit program during the owner's lifetime; and

(d) Limit the total amount of any one qualified loan made under the linked deposit program.

NEW SECTION. Sec. 4. The department of veterans affairs shall report to the governor and appropriate committees of the legislature by December 1, 2008, on the progress made in implementing this act."

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 43.60A.190, 43.86A.030, and 43.86A.060; 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 HOUSE BILL NO. 3360 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Hasegawa 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 Engrossed House Bill No. 3360, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 3360, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

ENGROSSED HOUSE BILL NO. 3360, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 11, 2008

Mr. Speaker:

The Senate has passed HOUSE BILL NO. 3362 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that improving energy efficiency is key to achieving the state's goals to reduce greenhouse gas emissions to 1990 levels by 2020. The legislature further finds that increased energy efficiency saves Washington businesses money, which in turn helps the state and local economy, as energy bill savings can be spent on local goods and services. Washington state and federal appliance standards passed since 2005 will produce about eighty thousand metric tons of greenhouse gas emissions savings toward Washington's 2020 target. However, there are a large number of commercial devices on the market that are not subject to those standards. In addition, there are many new products on the market that are much more energy efficient than required by such standards, but because they may be more expensive than standard models, they represent only a small percentage of sales. Most commercial equipment, once purchased, will be in use for ten to fifteen years; therefore, the more energy efficient they are, the greater the energy and cost savings and reductions in climate pollution.

Thus, the legislature intends to enact tax incentives as a means to encourage Washington businesses to purchase certain high efficiency appliances and equipment and to maximize the energy savings opportunity available through increased and sustained market share of those appliances and equipment.

NEW SECTION. Sec. 2. A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed in an amount equal to eight and eight-tenths percent multiplied by the purchase price, as defined in RCW 82.12.010, of the following items:

(a) Commercial freezers and refrigerators meeting consortium for energy efficiency tier 2 specifications dated January 1, 2006;

(b) High efficiency commercial clothes washers meeting consortium for energy efficiency specifications dated November 14, 2007;

(c) Commercial ice makers meeting consortium for energy efficiency specifications dated January 1, 2006;

(d) Commercial full-sized gas convection ovens with interior measurements of six cubic feet or larger;

(e) Commercial deep fat fryers which are rated energy star as of August 2003;

(f) Commercial hot food holding cabinets which are rated energy star as of August 2003; and

(g) Commercial electric and gas steam cookers, also known as compartment cookers, which are rated energy star as of August 2003.

(2) A person may not take the credit under this section if the person's gross income of the business in the prior calendar year exceeded seven hundred fifty thousand dollars.

(3) A credit earned during one calendar year may be carried over to be credited against taxes incurred in the subsequent calendar year. Credit may not be claimed against taxes due for any tax reporting period ending before the credit was earned. No refunds shall be granted for credits under this section.

(4) Credits are available on a first-in-time basis. The department shall disallow any credits, or portion thereof, that would cause the total amount of credits claimed statewide under this section in any year to exceed seven hundred fifty thousand dollars. If the seven hundred fifty thousand dollar limitation is reached, the department shall provide written notice to any person that has claimed tax credits after the seven hundred fifty thousand dollar limitation in this subsection has been met. The notice shall indicate the amount of tax due and shall provide that the tax be paid within thirty days from the date of such notice. The department may not assess penalties and interest as provided in chapter 82.32 RCW on the amount due in the initial notice if the amount due is paid by the due date specified in the notice, or any extension thereof.

(5) The department of community, trade, and economic development must prepare and deliver a report to the legislature no later than December 30, 2010, assessing the overall energy and cost saving impacts of this section.

(6) Credit may not be claimed under this section for the purchase of an item, listed in subsection (1) of this section, before the effective date of this section.

(7) Credit may not be claimed under this section for the purchase of an item, listed in subsection (1) of this section, after June 30, 2010.

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

(a)(i) "Commercial refrigerators and freezers" means refrigerators, freezers, or refrigerator-freezers designed for use by commercial or institutional facilities for the purpose of storing or merchandising food products, beverages, or ice at specified temperatures that: (A) Incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single cabinet; and (B) may be configured with either solid or transparent doors as a reach-in cabinet, pass-through cabinet, roll-in cabinet, or roll-through cabinet.

(ii) "Commercial refrigerators and freezers" does not include: (A) Products with eighty-five cubic feet or more of internal volume; (B) walk-in refrigerators or freezers; (C) consumer products that are federally regulated pursuant to Title 42 U.S.C. Sec. 6291 et seq.; (D) products without doors; or (E) freezers specifically designed for ice cream.

(b) "Commercial clothes washer" means a soft mount horizontal or vertical-axis clothes washer that: (i) Has a clothes container compartment no greater than three and one-half cubic feet in the case of a horizontal-axis product or no greater than four cubic feet in the case of a vertical-axis product; and (ii) is designed for use by more than one household, such as in multifamily housing, apartments, or coin laundries.

(c) "Commercial hot food holding cabinet" means an appliance that is designed to hold hot food at a specified temperature, which has been cooked using a separate appliance.

(d) "Commercial ice maker" means a factory-made assembly, not necessarily shipped in one package, consisting of a condensing unit and ice-making section operating as an integrated unit with means for making and harvesting ice. It may also include integrated components for storing or dispensing ice, or both.

(e) "Commercial open, deep-fat fryer" means an appliance, including a cooking vessel, in which oil is placed to such a depth that the cooking food is essentially supported by displacement of the cooking fluid rather than by the bottom of the vessel. Heat is delivered to the cooking fluid by means of an immersed electric element or band-wrapped vessel (electric fryers), or by heat transfer from gas burners through either the walls of the fryer or through tubes passing through the cooking fluid (gas fryers).

(f) "Consortium" means the consortium for energy efficiency, a United States nonprofit public benefits corporation that promotes the manufacture and purchase of energy efficient products and services. The consortium's members include utilities, statewide and regional market transformation administrators, environmental groups, research organizations, and state energy offices in the United States and Canada.

(g) "Energy star" is an energy efficient product that meets the federal environmental protection agency's and federal department of energy's criteria for use of the energy star trademark label, or is in the upper twenty-five percent of efficiency for all similar products as designated by the federal energy management program. Energy star is a voluntary labeling program designed to identify and promote energy efficient products to reduce greenhouse gas emissions.

(h) "Steam cooker" means a device with one or more food steaming compartments, in which the energy in the steam is transferred to the food by direct contact. Models may include countertop models, wall-mounted models, and floor models mounted on a stand, pedestal, or cabinet-style base.

NEW SECTION. Sec. 3. This act takes effect July 1, 2008.

NEW SECTION. Sec. 4. This act expires July 1, 2010."

On page 1, line 2 of the title, after "equipment;" strike the remainder of the title and insert "adding a new section to chapter 82.04 RCW; creating a new section; providing an effective date; 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 HOUSE BILL NO. 3362 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Kelley 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 House Bill No. 3362, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 3362, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 95, Nays - 2, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, 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, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Wood and Mr. Speaker - 95.

Voting nay: Representatives Anderson and Williams - 2.
Excused: Representative Hailey - 1.

HOUSE BILL NO. 3362, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 11, 2008

Mr. Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 3374 with the following amendment:

Strike everything after the enacting clause and insert the following:

"PART 1

NEW SECTION. Sec. 101. For the purpose of providing state funds for federally matched flood hazard mitigation and other projects throughout the Chehalis river basin, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fifty million dollars, or as much thereof as may be required, to finance the projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as

the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds.

NEW SECTION. Sec. 102. The proceeds from the sale of the bonds authorized in section 101 of this act shall be deposited in the state building construction account created by RCW 43.83.020. If the state finance committee deems it necessary to issue taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposits otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary. Moneys in the account may be spent only after appropriation. These proceeds shall be used exclusively for the purposes specified in section 101 of this act and for the payment of expenses incurred in the issuance and sale of the bonds. These proceeds shall be administered by the office of financial management subject to legislative appropriation.

NEW SECTION. Sec. 103. (1) The debt-limit general fund bond retirement account shall be used for the payment of the principal of and interest on the bonds authorized in section 101 of this act.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On each date on which any interest or principal and interest payment is due the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the debt-limit general fund bond retirement account an amount equal to the amount certified by the state finance committee to be due on the payment date.

NEW SECTION. Sec. 104. (1) Bonds issued under section 101 of this act shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

NEW SECTION. Sec. 105. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 101 of this act, and section 103 of this act shall not be deemed to provide an exclusive method for the payment.

NEW SECTION. Sec. 106. The bonds authorized in section 101 of this act shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

PART 2

NEW SECTION. Sec. 201. The legislature finds that the state's public schools and skill centers are a vital component of the future economic prosperity of our state and provide students with access to

high-quality academic and technical skills instruction. Skill centers challenge, motivate, and provide opportunities for students to achieve in basic skills, critical thinking, leadership, and work skills through hands-on education, applied academics, and technology training using a cost-effective delivery model. The legislature further finds that barriers to access exist for students in rural and high-density areas, but the development of satellite and branch campus programs will provide the needed access. The legislature further finds that existing and proposed new skill centers will require facilities and equipment that simulate business and industry. Therefore, it is the intent of the legislature to provide a new source of funding for the critical capital needs of the state's skill centers to enhance access to career and technical education opportunities and to improve the condition of existing facilities. Enhanced capital funding will provide skill centers the ability to fulfill their critical role in maintaining and stimulating the state's economy and expanding quality academic and career and technical education opportunities to more students, especially students who lack access to these programs to date.

In the interest of funding equity and ensuring a commitment to the new development, major renovation, or expansion of skill centers, all school district partners must contribute to the acquisition or major capital costs of skill center projects supported by this act to the greatest extent feasible.

NEW SECTION. Sec. 202. For the purpose of providing school construction assistance grants and needed capital improvements consisting of the predesign, design, acquisition, construction, modification, renovation, expansion, equipping, and other improvements of skill centers facilities, including capital improvements to support satellite or branch campus programs for underserved rural areas or high-density areas, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred million dollars, or as much thereof as may be required, to finance all or a part of these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. If the state finance committee deems it necessary to issue taxable bonds in order to comply with federal internal revenue service rules and regulations pertaining to the use of nontaxable bond proceeds, the proceeds of such taxable bonds shall be transferred to the state taxable building construction account in lieu of any deposits otherwise provided by this section. The state treasurer shall submit written notice to the director of financial management if it is determined that any such transfer to the state taxable building construction account is necessary.

NEW SECTION. Sec. 203. This chapter is not intended to limit the legislature's ability to appropriate bond proceeds if the full amount authorized in this chapter has not been appropriated after one biennia, and the authorization to issue bonds contained in this chapter does not expire until the full authorization has been appropriated and issued.

NEW SECTION. Sec. 204. (1) The proceeds from the sale of the bonds authorized in section 202 of this act shall be deposited in the school construction and skill centers building account created in section 210 of this act.

(2) The proceeds shall be used exclusively for the purposes stated in section 202 of this act and for the payment of the expenses incurred in connection with the sale and issuance of the bonds.

NEW SECTION. Sec. 205. (1) The nondebt-limit reimbursable bond retirement account must be used for the payment of the principal and interest on the bonds authorized in section 202 of this act.

(2)(a) The state finance committee must, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements on the bonds authorized in section 202 of this act.

(b) On or before the date on which any interest or principal and interest is due, the state treasurer shall transfer from that portion of the common school construction fund derived from the interest on the permanent common school fund into the nondebt-limit reimbursable bond retirement account the amount computed in (a) of this subsection for bonds issued for the purposes of section 202 of this act. Any deficiency in such transfer shall be made up as soon as moneys are available for transfer and shall constitute a continuing obligation of that portion of the common school construction fund derived from the interest on the permanent common school fund until all deficiencies are fully paid.

NEW SECTION. Sec. 206. (1) Bonds issued under section 202 of this act shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(2) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section.

NEW SECTION. Sec. 207. The bonds authorized in section 202 of this act shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

NEW SECTION. Sec. 208. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in section 202 of this act, and section 202 of this act shall not be deemed to provide an exclusive method for the payment.

NEW SECTION. Sec. 209. This chapter provides a complete, additional, and alternative method for accomplishing the purposes of this chapter and is supplemental and additional to powers conferred by other laws. The issuance of bonds under this chapter shall not be deemed to be the only method to fund projects under this chapter.

NEW SECTION. Sec. 210. The school construction and skill centers building account is created in the state treasury. Proceeds from the bonds issued under section 202 of this act shall be deposited in the account. The account shall be used for purposes stated in section 202 of this act. Moneys in the account may be spent only after appropriation.

PART 3

Sec. 301. RCW 39.42.060 and 2003 c 147 s 13 are each amended to read as follows:

No bonds, notes, or other evidences of indebtedness for borrowed money shall be issued by the state which will cause the aggregate debt contracted by the state to exceed that amount for which payments of principal and interest in any fiscal year would require the state to expend more than seven percent of the arithmetic mean of its general state revenues, as defined in RCW 39.42.070, for the three immediately preceding fiscal years as certified by the treasurer in accordance with RCW 39.42.070. It shall be the duty of the state finance committee to compute annually the amount required to pay principal of and interest on outstanding debt. In making such computation, the state finance committee shall include all borrowed money represented by bonds, notes, or other evidences of indebtedness which are secured by the full faith and credit of the state or are required to be paid, directly or indirectly, from general state revenues and which are incurred by the state, any department, authority, public corporation or quasi public corporation of the state, any state university or college, or any other public agency created by the state but not by counties, cities, towns, school districts, or other municipal corporations, and shall include debt incurred pursuant to section 3 of Article VIII of the Washington state Constitution, but shall exclude the following:

(1) Obligations for the payment of current expenses of state government;

(2) Indebtedness incurred pursuant to RCW 39.42.080 or 39.42.090;

(3) Principal of and interest on bond anticipation notes;

(4) Any indebtedness which has been refunded;

(5) Financing contracts entered into under chapter 39.94 RCW;

(6) Indebtedness authorized or incurred before July 1, 1993, pursuant to statute which requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from money other than general state revenues or from the special excise tax imposed pursuant to chapter 67.40 RCW;

(7) Indebtedness authorized and incurred after July 1, 1993, pursuant to statute that requires that the state treasury be reimbursed, in the amount of the principal of and the interest on such indebtedness, from (a) moneys outside the state treasury, except higher education operating fees, (b) higher education building fees, (c) indirect costs recovered from federal grants and contracts, and (d) fees and charges associated with hospitals operated or managed by institutions of higher education;

(8) Any agreement, promissory note, or other instrument entered into by the state finance committee under RCW 39.42.030 in connection with its acquisition of bond insurance, letters of credit, or other credit support instruments for the purpose of guaranteeing the payment or enhancing the marketability, or both, of any state bonds, notes, or other evidence of indebtedness;

(9) Indebtedness incurred for the purposes identified in RCW 43.99N.020;

(10) Indebtedness incurred for the purposes of the school district bond guaranty established by chapter 39.98 RCW;

(11) Indebtedness incurred for the purposes of replacing the waterproof membrane over the east plaza garage and revising related landscaping construction pursuant to RCW 43.99Q.070;

(12) Indebtedness incurred for the purposes of the state legislative building rehabilitation, to the extent that principal and interest payments of such indebtedness are paid from the capitol building construction account pursuant to RCW 43.99Q.140(2)(b); ~~((and))~~

(13) Indebtedness incurred for the purposes of financing projects under RCW 47.10.867; and

(14) Indebtedness incurred for the purposes of school construction assistance grants and capital improvements for skill centers under section 202 of this act.

To the extent necessary because of the constitutional or statutory debt limitation, priorities with respect to the issuance or guaranteeing of bonds, notes, or other evidences of indebtedness by the state shall be determined by the state finance committee.

Sec. 302. RCW 28A.245.030 and 2007 c 463 s 4 are each amended to read as follows:

(1) The office of the superintendent of public instruction shall review and revise the guidelines for skill centers to encourage skill center programs. The superintendent, in cooperation with the workforce training and education coordinating board, skill center directors, and the Washington association for career and technical education, shall review and revise the existing skill centers' policy guidelines and create and adopt rules governing skill centers as follows:

(a) The threshold enrollment at a skill center shall be revised so that a skill center program need not have a minimum of seventy percent of its students enrolled on the skill center core campus in order to facilitate serving rural students through expansion of skill center programs by means of satellite programs or branch campuses;

(b) The developmental planning for branch campuses shall be encouraged. Underserved rural areas or high-density areas may partner with an existing skill center to create satellite programs or a branch campus. Once a branch campus reaches sufficient enrollment to become self-sustaining, it may become a separate skill center or remain an extension of the founding skill center; and

(c) Satellite and branch campus programs shall be encouraged to address high-demand fields.

(2) Rules adopted under this section shall allow for innovative models of satellite and branch campus programs, and such programs shall not be limited to those housed in physical buildings.

(3) The superintendent of public instruction shall develop and deliver a ten-year capital plan for legislative review before implementation. The superintendent of public instruction shall adopt rules that set as a goal a ten percent minimum local project contribution threshold for major skill center projects, unless there is a compelling rationale not to do so, including but not limited to local economic conditions, as determined by the superintendent of public instruction. This applies to the acquisition or major capital costs of skill center projects as outlined in the ten-year capital plan.

(4) Subject to available funding, the superintendent shall:

(a) Conduct approved feasibility studies for serving noncooperative rural and high-density area students in their geographic areas; and

(b) Develop a statewide master plan that identifies standards and resources needed to create a technology infrastructure for connecting all skill centers to the K-20 network.

NEW SECTION. Sec. 303. Sections 101 through 106 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 304. Sections 201 through 210 of this act constitute a new chapter in Title 28A RCW.

NEW SECTION. Sec. 305. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 306. 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. 307. 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 "Relating to" strike the remainder of the title and insert "state general obligation bonds for flood hazard mitigation projects and school facilities; amending RCW 39.42.060 and 28A.245.030; adding a new chapter to Title 43 RCW; adding a new chapter to Title 28A 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 SUBSTITUTE HOUSE BILL NO. 3374 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Ormsby 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. 3374, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 3374, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

SUBSTITUTE HOUSE BILL NO. 3374, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 11, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE CONCURRENT RESOLUTION NO. 4408 with the following amendment:

Strike everything beginning with line 1 and insert the following:

"WHEREAS, Washington State is an economic leader in a globally competitive environment where human capital is becoming the prime currency; and

WHEREAS, The legislature wishes to craft a vision for our education system that truly nurtures and develops each person to realize their limitless potential; and

WHEREAS, Postsecondary education is the crowning jewel in our state's human capital development plan and it is the legislature's intent to focus on the long-term goal of providing the necessary levels of education to our residents required to catapult Washington into global educational leadership; and

WHEREAS, This goal of providing the necessary levels of education will necessitate development of creative and visionary approaches to educational reform that include financing and revenue reform and implementation strategies to overcome the challenges in simultaneously funding all of the state's legitimate needs; and

WHEREAS, The higher education coordinating board is charged under RCW 28B.76.200 with developing a statewide strategic master plan for higher education, encompassing all sectors including the two-year system, workforce training, the four-year institutions of higher education, and financial aid; and

WHEREAS, The legislature enacted chapter 458, Laws of 2007, requiring the strategic master plan to present a vision, measurable goals, and priorities spanning a ten-year period of time, with strategies for expanding access, affordability, quality, efficiency, and accountability; and

WHEREAS, The legislature supports taking the steps needed to implement this vision of global educational leadership and supports the incremental steps proposed in the strategic master plan to improve our higher education system so as not to fall behind the rest of the world as other countries rush to confront the same challenges; and

WHEREAS, The legislature supports the short-term goals and policies embedded in the master plan that would create a higher education system grounded in equality, access, affordability, and accountability as well as promote economic growth and innovation; and

WHEREAS, The legislature will continue to look at ways to improve Washington's system of higher education; and

WHEREAS, The law provides that the legislature shall by concurrent resolution approve or recommend changes to the plan, following public hearings, after which the board shall incorporate legislative changes and adopt a final plan by June of the year in which the legislature passes the concurrent resolution; and

WHEREAS, The higher education coordinating board, from February through November 2007, conducted regular public meetings

of the board and the board's advisory council and in fall 2007 organized public forums and focus group meetings around the state bringing educational, business, and community leaders together to engage stakeholders and the public in developing ideas for the strategic master plan; and

WHEREAS, The higher education coordinating board received input for the plan from a wide range of perspectives through presentations provided by leaders from the legislature, business, public and independent baccalaureate institutions of higher education, community and technical colleges, workforce training agencies, the common school system, and representatives of the governor, students, faculty, and communities of color, economists, and other experts; and

WHEREAS, The final report issued by Washington Learns called for a world-class, learner-focused seamless educational system from preschool through higher education and articulated a vision for the improvement of educational attainment at all levels of educational system in the state of Washington, a vision that lies at the heart of the proposed 2008 update of the master plan submitted by the higher education coordinating board; and

WHEREAS, The higher education coordinating board finds that while many of the world's developed nations have made huge gains in the educational attainment levels of their populations, the United States has not and Washingtonians aged twenty-five to thirty-four actually are less well-educated than Washingtonians aged forty-five to fifty-four; and

WHEREAS, Demographic projections indicate the population of Washington will grow thirty-seven percent by the year 2030 while the state's population simultaneously becomes much more diverse; and

WHEREAS, Over seventy percent of the workforce of the year 2030 is currently employed, and many will be required to upgrade their skills to keep up with technological and other workplace changes; and

WHEREAS, One out of four people aged eighteen to twenty-four does not have a high school diploma and Washington's undereducated working population is equal in size to its next ten high school graduating classes; and

WHEREAS, Global competition, process automation, the increased pace of technological change, and the progressively shortened life span of many products has and will continue to result in worker layoffs, and laid-off workers will need to retool their skills in order to be reemployed; and

WHEREAS, Our growing economy also depends on a skilled workforce including workers who have completed certificates, associate degrees, and apprenticeship programs; and

WHEREAS, Washington must attract annually to the state over thirty-six thousand people who hold at least a bachelor's degree in order to fill the jobs being created by the state's economy, a net immigration of highly educated workers second among Washington's Global Challenge State peers, behind only California, which attracts about thirty-nine thousand similarly educated people annually; and

WHEREAS, Depending on other states and nations to provide educational attainment levels necessary to fill the best jobs being created in Washington may not be a sustainable economic strategy and misses the opportunity to prepare Washington residents for some of the best jobs being created by Washington's economy; and

WHEREAS, The higher education coordinating board recommends creating opportunities for Washington residents and fueling the growth of Washington's economy by increasing annual production of certificates and two-year degrees to an annual total of thirty-six thousand two hundred by 2018; and

WHEREAS, The proposed master plan update recommends raising educational attainment by addressing diversity, raising expectations in the common school system, promoting lifelong learning and improving affordable access, and recommends a series of strategies for promoting economic growth, innovation, and funding for accountability and results;

NOW, THEREFORE, BE IT RESOLVED, By the House of Representatives of the state of Washington, the Senate concurring, That the statewide strategic master plan update submitted by the higher education coordinating board on December 15, 2007, be approved, provided that, during the development of the final plan, the higher education coordinating board should consider:

(1) Refining and prioritizing the proposed bachelor's degree and graduate degree production targets to base them more specifically upon the evolving needs of Washington's economy, rather than upon external benchmarks;

(2) Providing programs, degrees, and certificates that use industry best practices and an outcome-based approach for each academic subject offered including remedial and adult basic education;

(3) Maximizing the use of full-time faculty employment without hampering the institutions' ability to maintain an adequate level of flexibility and cost-effectiveness;

(4) Creating and maintaining sustainable, efficient, and cost-effective facilities, technology, and programs that provide enhanced access and delivery of postsecondary education throughout the state;

(5) Maximizing the use of state funding and reviewing the cost of service delivery including innovative approaches used by other nations such as review of the time to degree, credit hours required, and other methods to reduce costs while maintaining quality; and

(6) The program capacity at public, independent, and career schools when determining the public investments that the higher education coordinating board recommends to be made to the legislature for new program and facility development to meet the total demand for a skilled and educated workforce; and

BE IT FURTHER RESOLVED, That the higher education coordinating board shall actively involve public and independent two-year and four-year institutions of higher education, private vocational schools, the council of presidents, the independent colleges of Washington, the state board for community and technical colleges, the workforce training and education coordinating board, faculty from four-year institutions of higher education and the community and technical colleges, students, representatives of business and other interested stakeholders, the office of financial management, the office of the superintendent of public instruction, teachers and other representatives of the public school system, and appropriate committees of the legislature, in collaboratively refining the strategies and specifying next steps required to implement strategies recommended in the 2008 update of the master plan; and

BE IT FURTHER RESOLVED, That the higher education coordinating board shall report to the higher education committees of the House of Representatives and the Senate on progress implementing the 2008 update of the master plan by February 1, 2009."

and the same is herewith transmitted.

Thomas Hoemann, Secretary

**SENATE AMENDMENT TO
HOUSE CONCURRENT RESOLUTION**

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE CONCURRENT RESOLUTION NO. 4408 and advanced the concurrent resolution as amended by the Senate to final adoption.

**FINAL PASSAGE OF
HOUSE CONCURRENT RESOLUTION
AS SENATE AMENDED**

Representative Anderson spoke in favor of the adoption of the concurrent resolution.

The Speaker (Representative Morris presiding) stated the question before the House to be the final adoption of Engrossed Substitute House Concurrent Resolution No. 4408, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final adoption of Engrossed Substitute House Concurrent Resolution No. 4408, as amended by the Senate, and the concurrent resolution passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

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, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

ENGROSSED SUBSTITUTE HOUSE CONCURRENT RESOLUTION NO. 4408, as amended by the Senate, having received the necessary constitutional majority, was declared adopted.

MESSAGE FROM THE SENATE

March 10, 2008

Mr. Speaker:

The Senate refuses to concur in the House amendment to SECOND SUBSTITUTE SENATE BILL NO. 5596 and asks the House to recede therefrom, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment, the rules were suspended and SECOND SUBSTITUTE SENATE BILL NO. 5596 was returned to second reading for purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SECOND SUBSTITUTE SENATE BILL 5596 by Senate Ways & Means (originally sponsored by Senators Franklin, Benton, Kline, Poulsen, Keiser, and Roach)

Requiring fair payment for chiropractic services.

Representative Cody moved the adoption of amendment (1568):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 48.43 RCW to read as follows:

(1)(a) A health carrier may not pay a chiropractor less for a service or procedure identified under a particular physical medicine and rehabilitation code or evaluation and management code, as listed in a nationally recognized services and procedures code book such as the American medical association current procedural terminology code book, than it pays any other type of provider licensed under Title 18 RCW for a service or procedure under the same code, except as provided in (b) of this subsection. A carrier may not circumvent this requirement by creating a chiropractor-specific code not listed in the nationally recognized code book otherwise used by the carrier for provider payment.

(b) This section does not affect a health carrier's:

(i) Implementation of a health care quality improvement program to promote cost-effective and clinically efficacious health care services, including but not limited to pay-for-performance payment methodologies and other programs fairly applied to all health care providers licensed under Title 18 RCW that are designed to promote evidence-based and research-based practices;

(ii) Health care provider contracting to comply with the network adequacy standards;

(iii) Authority to pay in-network providers differently than out-of-network providers; and

(iv) Authority to pay a chiropractor less than another provider for procedures or services under the same code based upon geographic differences in the cost of maintaining a practice.

(c) This section does not, and may not be construed to:

(i) Require the payment of provider billings that do not meet the definition of a clean claim as set forth in rules adopted by the commissioner;

(ii) Require any health plan to include coverage of any condition; or

(iii) Expand the scope of practice for any health care provider.

(2) This section applies only to payments made on or after January 1, 2009.

Sec. 2. RCW 41.05.017 and 2007 c 502 s 2 are each amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 43.70.235, 48.43.545, 48.43.550, 70.02.110, 70.02.900, section 1 of this act, and 48.43.083.

NEW SECTION. Sec. 3. A new section is added to chapter 48.43 RCW to read as follows:

(1) On or after January 1, 2010, the commissioner shall contract for an evaluation of the impact of section 1 of this act on the utilization and cost of health care services associated with physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes, and on the total cost of episodes of care for treatment associated with the use of these payment or billing codes.

(2) The commissioner shall require carriers to provide to the contractor such data as the contractor determines is necessary to complete the evaluation under subsection (1) of this section. Data may include, but need not be limited to, the following:

(a) Data on the utilization of physical medicine and rehabilitation services and evaluation and management services associated with payment or billing codes for those services;

(b) Data related to changes in the distribution or mix of health care providers providing services under physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes;

(c) Data related to trends in carrier expenditures for services associated with physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes; and

(d) Data related to trends in carrier expenditures for the total cost of health plan enrollee care for treatment of the presenting health problems associated with the use of physical medicine and rehabilitation payment or billing codes and evaluation and management payment or billing codes.

(3) Data, information, and documents provided by the carrier pursuant to this section are exempt from public inspection and copying under chapter 42.56 RCW.

(4) The commissioner shall submit the evaluation required in subsection (1) of this section to the appropriate committees of the senate and house of representatives by January 1, 2012.

NEW SECTION. Sec. 4. This act expires June 30, 2013."

Correct the title.

Representatives Cody and Hinkle spoke in favor of the adoption of the amendment.

The amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third, and the bill, as amended by the House, was placed on final passage.

Representative Cody spoke in favor of 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 Senate Bill No. 5596, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 5596, as amended by the House and the bill passed the House by the following vote: Yeas - 81, Nays - 16, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Anderson, Appleton, Armstrong, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, DeBolt, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Haler, Hankins, Hasegawa, Herrera, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kelley, Kenney, Kessler, Kirby, 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, Santos, Schual-Berke, Seaquist, Sells, Simpson, Sommers, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Williams, Wood and Mr. Speaker - 81.

Voting nay: Representatives Alexander, Bailey, Chandler, Condotta, Crouse, Ericksen, Hinkle, Kretz, Kristiansen, Ross, Schindler, Schmick, Skinner, Smith, Sump and Warnick - 16.

Excused: Representative Hailey - 1.

SECOND SUBSTITUTE SENATE BILL NO. 5596, as amended by the House having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 12, 2008

Mr. Speaker:

The Senate refuses to concur in the House amendment to SENATE BILL NO. 6332 and asks the House to recede therefrom, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

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

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment, the rules were suspended and SENATE BILL NO. 6332 was returned to second reading for purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 6332 By Senator Senators Kauffman, Kilmer, Shin, Murray, Sheldon, Marr, Rasmussen, Franklin, Berkey, Haugen, Kohl-Welles, Regala, Keiser, Spanel, McDermott, Rockefeller, Kline, Tom, and McAuliffe; by request of Governor Gregoire

Increasing the debt limit of the housing finance commission.

Representative Ormsby moved the adoption of amendment (1570):

On page 1, line 7, after "~~four~~" strike "six and one-half" and insert "five (~~and one-half~~)"

Representatives Ormsby and McDonald spoke in favor of the adoption of the amendment.

The amendment was adopted.

FINAL PASSAGE OF SENATE BILL AS HOUSE AMENDED

Representatives Ormsby and McDonald 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 Senate Bill No. 6332, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 6332, as amended by the House, and the bill passed the House by the following vote: Yeas - 96, Nays - 1, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, 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, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege,

Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 96.

Voting nay: Representative Anderson - 1.

Excused: Representative Hailey - 1.

SENATE BILL NO. 6332, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

MESSAGE FROM THE SENATE

March 8, 2008

Mr. Speaker:

The Senate refuses to concur in the House amendments to SUBSTITUTE SENATE BILL NO. 6609 and asks the House to recede therefrom, and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House insisted on its position in its amendments to SUBSTITUTE SENATE BILL NO. 6609 and asked the Senate to concur therein.

MESSAGE FROM THE SENATE

March 10, 2008

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 6665 and asks the House to recede therefrom, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment, the rules were suspended and ENGROSSED SUBSTITUTE SENATE BILL NO. 6665 was returned to second reading for purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6665 by Senate Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, and Marr)

Regarding the intensive case management and integrated crisis response pilot programs.

Representative Dickerson moved the adoption of amendment (1556):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.96A.800 and 2005 c 504 s 220 are each amended to read as follows:

(1) Subject to funds appropriated for this specific purpose, the secretary shall select and contract with counties to provide intensive case management for chemically dependent persons with histories of high utilization of crisis services at two sites. In selecting the two sites, the secretary shall endeavor to site one in an urban county, and one in a rural county; and to site them in counties other than those selected pursuant to RCW 70.96B.020, to the extent necessary to facilitate evaluation of pilot project results. Subject to funds appropriated for this specific purpose, the secretary may contract with additional counties to provide intensive case management.

(2) The contracted sites shall implement the pilot programs by providing intensive case management to persons with a primary chemical dependency diagnosis or dual primary chemical dependency and mental health diagnoses, through the employment of chemical dependency case managers. The chemical dependency case managers shall:

(a) Be trained in and use the integrated, comprehensive screening and assessment process adopted under RCW 70.96C.010;

(b) Reduce the use of crisis medical, chemical dependency and mental health services, including but not limited to, emergency room admissions, hospitalizations, detoxification programs, inpatient psychiatric admissions, involuntary treatment petitions, emergency medical services, and ambulance services;

(c) Reduce the use of emergency first responder services including police, fire, emergency medical, and ambulance services;

(d) Reduce the number of criminal justice interventions including arrests, violations of conditions of supervision, bookings, jail days, prison sanction day for violations, court appearances, and prosecutor and defense costs;

(e) Where appropriate and available, work with therapeutic courts including drug courts and mental health courts to maximize the outcomes for the individual and reduce the likelihood of reoffense;

(f) Coordinate with local offices of the economic services administration to assist the person in accessing and remaining enrolled in those programs to which the person may be entitled;

(g) Where appropriate and available, coordinate with primary care and other programs operated through the federal government including federally qualified health centers, Indian health programs, and veterans' health programs for which the person is eligible to reduce duplication of services and conflicts in case approach;

(h) Where appropriate, advocate for the client's needs to assist the person in achieving and maintaining stability and progress toward recovery;

(i) Document the numbers of persons with co-occurring mental and substance abuse disorders and the point of determination of the co-occurring disorder by quadrant of intensity of need; and

(j) Where a program participant is under supervision by the department of corrections, collaborate with the department of corrections to maximize treatment outcomes and reduce the likelihood of reoffense.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.

((4) This section expires June 30, 2008.))

Sec. 2. RCW 70.96B.800 and 2005 c 504 s 217 are each amended to read as follows:

(1) The Washington state institute for public policy shall evaluate the pilot programs and make ((a)) preliminary reports to appropriate committees of the legislature by December 1, 2007, and June 30, 2008, and a final report by ((September 30, 2008)) June 30, 2010.

(2) The evaluation of the pilot programs shall include:

(a) Whether the designated crisis responder pilot program:

(i) Has increased efficiency of evaluation and treatment of persons involuntarily detained for seventy-two hours;

(ii) Is cost-effective;

(iii) Results in better outcomes for persons involuntarily detained;

(iv) Increased the effectiveness of the crisis response system in the pilot catchment areas;

(b) The effectiveness of providing a single chapter in the Revised Code of Washington to address initial detention of persons with mental disorders or chemical dependency, in crisis response situations and the likelihood of effectiveness of providing a single, comprehensive involuntary treatment act.

(3) The reports shall consider the impact of the pilot programs on the existing mental health system and on the persons served by the system.

Sec. 3. RCW 70.96B.010 and 2005 c 504 s 202 are each amended to read as follows:

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

(1) "Admission" or "admit" means a decision by a physician that a person should be examined or treated as a patient in a hospital, an evaluation and treatment facility, or other inpatient facility, or a decision by a professional person in charge or his or her designee that a person should be detained as a patient for evaluation and treatment in a secure detoxification facility or other certified chemical dependency provider.

(2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes but is not limited to atypical antipsychotic medications.

(3) "Approved treatment program" means a discrete program of chemical dependency treatment provided by a treatment program certified by the department as meeting standards adopted under chapter 70.96A RCW.

(4) "Attending staff" means any person on the staff of a public or private agency having responsibility for the care and treatment of a patient.

(5) "Chemical dependency" means:

(a) Alcoholism;

(b) Drug addiction; or

(c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.

(6) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

(7) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting.

(8) "Conditional release" means a revocable modification of a commitment that may be revoked upon violation of any of its terms.

(9) "Custody" means involuntary detention under either chapter 71.05 or 70.96A RCW or this chapter, uninterrupted by any period

of unconditional release from commitment from a facility providing involuntary care and treatment.

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

(11) "Designated chemical dependency specialist" or "specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in RCW 70.96A.140 and this chapter, and qualified to do so by meeting standards adopted by the department.

(12) "Designated crisis responder" means a person designated by the county or regional support network to perform the duties specified in this chapter.

(13) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter.

(14) "Detention" or "detain" means the lawful confinement of a person under this chapter, or chapter 70.96A or 71.05 RCW.

(15) "Developmental disabilities professional" means a person who has specialized training and three years of experience in directly treating or working with individuals with developmental disabilities and is a psychiatrist, psychologist, or social worker, and such other developmental disabilities professionals as may be defined by rules adopted by the secretary.

(16) "Developmental disability" means that condition defined in RCW 71A.10.020.

(17) "Discharge" means the termination of facility authority. The commitment may remain in place, be terminated, or be amended by court order.

(18) "Evaluation and treatment facility" means any facility that can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and that is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility that is part of, or operated by, the department or any federal agency does not require certification. No correctional institution or facility, or jail, may be an evaluation and treatment facility within the meaning of this chapter.

(19) "Facility" means either an evaluation and treatment facility or a secure detoxification facility.

(20) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals:

(a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or

(b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.

(21) "History of one or more violent acts" refers to the period of time ten years before the filing of a petition under this chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent, but not any violent acts committed, in a mental health facility or a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.

(22) "Imminent" means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote.

(23) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other psychoactive chemicals.

((23)) (24) "Judicial commitment" means a commitment by a court under this chapter.

((24)) (25) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

((25)) (26) "Likelihood of serious harm" means:

(a) A substantial risk that:

(i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

(ii) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or

(iii) Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts.

((26)) (27) "Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on a person's cognitive or volitional functions.

((27)) (28) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under the authority of chapter 71.05 RCW.

((28)) (29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.

((29)) (30) "Person in charge" means a physician or chemical dependency counselor as defined in rule by the department, who is empowered by a certified treatment program with authority to make assessment, admission, continuing care, and discharge decisions on behalf of the certified program.

((30)) (31) "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital, or approved treatment program, that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent.

((31)) (32) "Professional person" means a mental health professional or chemical dependency professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter.

((32)) (33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology.

((33)) (34) "Psychologist" means a person who has been licensed as a psychologist under chapter 18.83 RCW.

((34)) (35) "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved treatment program that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

((35)) (36) "Registration records" means all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.

((36)) (37) "Release" means legal termination of the commitment under chapter 70.96A or 71.05 RCW or this chapter.

((37)) (38) "Secretary" means the secretary of the department or the secretary's designee.

((38)) (39) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that serves the purpose of providing evaluation and assessment, and acute and/or subacute detoxification services for intoxicated persons and includes security measures sufficient to protect the patients, staff, and community.

((39)) (40) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

((40)) (41) "Treatment records" means registration records and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.

((41)) (42) "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.

Sec. 4. RCW 70.96B.020 and 2005 c 504 s 203 are each amended to read as follows:

(1) Subject to funds appropriated for this specific purpose, the secretary, after consulting with the Washington state association of counties, shall select and contract with regional support networks or counties to provide two integrated crisis response and involuntary treatment pilot programs for adults and shall allocate resources for both integrated services and secure detoxification services in the pilot areas. In selecting the two regional support networks or counties, the secretary shall endeavor to site one in an urban and one in a rural regional support network or county; and to site them in counties other than those selected pursuant to RCW 70.96A.800, to the extent necessary to facilitate evaluation of pilot project results. Subject to funds appropriated for this specific purpose, the secretary may contract with additional regional support networks or counties to provide integrated crisis response and involuntary treatment pilot programs to adults.

(2) The regional support networks or counties shall implement the pilot programs by providing integrated crisis response and involuntary treatment to persons with a chemical dependency, a mental disorder, or both, consistent with this chapter. The pilot programs shall:

(a) Combine the crisis responder functions of a designated mental health professional under chapter 71.05 RCW and a designated chemical dependency specialist under chapter 70.96A RCW by establishing a new designated crisis responder who is authorized to conduct investigations and detain persons up to seventy-two hours to the proper facility;

(b) Provide training to the crisis responders as required by the department;

(c) Provide sufficient staff and resources to ensure availability of an adequate number of crisis responders twenty-four hours a day, seven days a week;

(d) Provide the administrative and court-related staff, resources, and processes necessary to facilitate the legal requirements of the initial detention and the commitment hearings for persons with a chemical dependency;

(e) Participate in the evaluation and report to assess the outcomes of the pilot programs including providing data and information as requested;

(f) Provide the other services necessary to the implementation of the pilot programs, consistent with this chapter as determined by the secretary in contract; and

(g) Collaborate with the department of corrections where persons detained or committed are also subject to supervision by the department of corrections.

(3) The pilot programs established by this section shall begin providing services by March 1, 2006.

Sec. 5. RCW 70.96B.050 and 2007 c 120 s 1 are each amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, chemical dependency disorder, or both, presents a likelihood of serious harm or is gravely disabled, the designated crisis responder may, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of any person providing information to initiate detention, if satisfied that the allegations are true and that the person will not voluntarily seek appropriate treatment, file a petition for initial detention. Before filing the petition, the designated crisis responder must personally interview the person, unless the person refuses an interview, and determine whether the person will voluntarily receive appropriate evaluation and treatment at either an evaluation and treatment facility, a detoxification facility, or other certified chemical dependency provider.

(2)(a) An order to detain to an evaluation and treatment facility, a detoxification facility, or other certified chemical dependency provider for not more than a seventy-two hour evaluation and treatment period may be issued by a judge upon request of a designated crisis responder: (i) Whenever it appears to the satisfaction of a judge of the superior court, district court, or other court permitted by court rule, that there is probable cause to support the petition, and (ii) that the person has refused or failed to accept appropriate evaluation and treatment voluntarily.

(b) The petition for initial detention, signed under penalty of perjury or sworn telephonic testimony, may be considered by the court in determining whether there are sufficient grounds for issuing the order.

(c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.

(3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order to appear, together with a notice of rights and a petition for initial detention. After service on the person, the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility or secure detoxification facility and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient

evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider. If requested by the detained person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may be continued subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours. The person may be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other person accompanying the person may be present during the admission evaluation. The facility may exclude the person if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.

(4) The designated crisis responder may notify a peace officer to take the person or cause the person to be taken into custody and placed in an evaluation and treatment facility, a secure detoxification facility, or other certified chemical dependency provider. At the time the person is taken into custody there shall commence to be served on the person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of detention, a notice of rights, and a petition for initial detention.

Sec. 6. RCW 70.96B.100 and 2005 c 504 s 211 are each amended to read as follows:

((If a person is detained for additional treatment beyond fourteen days under RCW 70.96B.090, the professional staff of the agency or facility may petition for additional treatment under RCW 70.96A.140.)) (1) A person detained for fourteen days of involuntary chemical dependency treatment under RCW 70.96B.090 or subsection (6) of this section shall be released from involuntary treatment at the expiration of the period of commitment unless the professional staff of the agency or facility files a petition for an additional period of involuntary treatment under RCW 70.96A.140, or files a petition for sixty days less restrictive treatment under this section naming the detained person as a respondent. Costs associated with the obtainment or revocation of an order for less restrictive treatment and subsequent involuntary commitment shall be provided for within current funding.

(2) A petition for less restrictive treatment must be filed at least three days before expiration of the fourteen-day period of intensive treatment, and comport with the rules contained in RCW 70.96B.090(2). The petition shall state facts that support the finding that the respondent, as a result of a chemical dependency, presents a likelihood of serious harm or is gravely disabled, and that continued treatment pursuant to a less restrictive order is in the best interest of the respondent or others. At the time of filing such a petition, the clerk shall set a time for the respondent to come before the court on the next judicial day after the day of filing unless such appearance is waived by the respondent's attorney.

(3) At the time set for appearance the respondent must be brought before the court, unless such appearance has been waived and the court shall advise the respondent of his or her right to be represented by an attorney. If the respondent is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent the respondent. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the respondent to examine and testify on behalf of the respondent.

(4) The court shall conduct a hearing on the petition for sixty days less restrictive treatment on or before the last day of the

confinement period. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The respondent shall be present at such proceeding. The rules of evidence shall apply, and the respondent shall have the right to present evidence on his or her behalf, to cross-examine witnesses who testify against him or her, to remain silent, and to view and copy all petitions and reports in the court file. The physician-patient privilege or the psychologist-client privilege shall be deemed waived in accordance with the provisions under RCW 71.05.360(9). Involuntary treatment shall continue while a petition for less restrictive treatment is pending under this section.

(5) The court may impose a sixty-day less restrictive order if the evidence shows that the respondent, as a result of a chemical dependency, presents a likelihood of serious harm or is gravely disabled, and that continued treatment pursuant to a less restrictive order is in the best interest of the respondent or others. The less restrictive order may impose treatment conditions and other conditions which are in the best interest of the respondent and others. A copy of the less restrictive order shall be given to the respondent, the designated crisis responder, and any program designated to provide less restrictive treatment. A program designated to provide less restrictive treatment and willing to supervise the conditions of the less restrictive order may modify the conditions for continued release when the modification is in the best interests of the respondent, but must notify the designated crisis responder and the court of such modification.

(6) If a program approved by the court and willing to supervise the conditions of the less restrictive order or the designated crisis responder determines that the respondent is failing to adhere to the terms of the less restrictive order or that substantial deterioration in the respondent's functioning has occurred, then the designated crisis responder shall notify the court of original commitment and request a hearing to be held no less than two and no more than seven days after the date of the request to determine whether or not the respondent should be returned to more restrictive care. The designated crisis responder may cause the respondent to be immediately taken into custody of the secure detoxification facility pending the hearing if the alleged noncompliance causes the respondent to present a likelihood of serious harm. The designated crisis responder shall file a petition with the court stating the facts substantiating the need for the hearing along with the treatment recommendations. The respondent shall have the same rights with respect to notice, hearing, and counsel as for the original involuntary treatment proceedings. The issues to be determined at the hearing are whether the conditionally released respondent did or did not adhere to the terms and conditions of his or her release to less restrictive care or that substantial deterioration of the respondent's functioning has occurred and whether the conditions of release should be modified or the respondent should be returned to a more restrictive setting. The hearing may be waived by the respondent and his or her counsel and his or her guardian or conservator, if any, but may not be waived unless all such persons agree to the waiver. If the court finds in favor of the petitioner, or the respondent waives a hearing, the court may order the respondent to be committed to a secure detoxification facility for fourteen days of involuntary chemical dependency treatment, or may order the respondent to be returned to less restrictive treatment on the same or modified conditions.

NEW SECTION. Sec. 7. RCW 70.96B.900 (Expiration date--2005 c 504 ?? 202-216) and 2005 c 504 s 219 are each repealed.

Sec. 8. 2007 c 120 s 4 (uncodified) is repealed.

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

Correct the title.

Representative Dickerson spoke in favor of the adoption of the amendment.

The amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third, and the bill, as amended by the House, was placed on final passage.

FINAL PASSAGE OF SENATE BILL AS HOUSE 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 Engrossed Substitute Senate Bill No. 6665, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 6665, as amended by the House, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

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, Santos, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6665, as amended by the House, having received the necessary constitutional majority, was declared passed.

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

MESSAGE FROM THE SENATE

March 10, 2008

Mr. Speaker:

The Senate refuses to concur in the House amendment to SECOND SUBSTITUTE SENATE BILL NO. 6855 and asks the House to recede therefrom, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment, the rules were suspended and SECOND SUBSTITUTE SENATE BILL NO. 6855 was returned to second reading for purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SECOND SUBSTITUTE SENATE BILL NO. 6855 By Senate Ways & Means (originally sponsored by Senators Kilmer, Brandland, Hatfield, and McAuliffe)

Concerning funding for jobs, economic development, and local capital projects.

With the consent of the House, amendment (1558) was withdrawn.

Representative Ormsby moved the adoption of amendment (1566):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.160.010 and 1999 c 164 s 101 and 1999 c 94 s 5 are each reenacted and amended to read as follows:

(1) The legislature finds that it is the public policy of the state of Washington to direct financial resources toward the fostering of economic development through the stimulation of investment and job opportunities and the retention of sustainable existing employment for the general welfare of the inhabitants of the state. Reducing unemployment and reducing the time citizens remain jobless is important for the economic welfare of the state. A valuable means of fostering economic development is the construction of public facilities which contribute to the stability and growth of the state's economic base. ((Strengthening the economic base through issuance of industrial development bonds, whether single or umbrella, further serves to reduce unemployment. Consolidating issues of industrial development bonds when feasible to reduce costs additionally advances the state's purpose to improve economic vitality.)) Expenditures made for these purposes as authorized in this chapter

are declared to be in the public interest, and constitute a proper use of public funds. A community economic revitalization board is needed which shall aid the development of economic opportunities. The general objectives of the board should include:

(a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;

(b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment;

(c) Encouraging wider access to financial resources for both large and small industrial development projects;

(d) Encouraging new economic development or expansions to maximize employment;

(e) Encouraging the retention of viable existing firms and employment; and

(f) Providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment.

(2) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways, county roads, or city streets for industries considering locating or expanding in this state.

((a)) (3) The legislature finds it desirable to provide a process whereby the need for diverse public works improvements necessitated by planned economic development can be addressed in a timely fashion and with coordination among all responsible governmental entities.

((b)) All transportation improvements on state highways must first be approved by the state transportation commission and the community economic revitalization board in accordance with the procedures established by RCW 43.160.074 and 47.01.280.

(3)) (4) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to assist development of telecommunications infrastructure that supports business development, retention, and expansion in ((rural natural resources impact areas and rural counties of)) the state.

((4)) (5) The legislature also finds that the state's economic development efforts can be enhanced by providing funds to improve markets for those recyclable materials representing a large fraction of the waste stream. The legislature finds that public facilities which result in private construction of processing or remanufacturing facilities for recyclable materials are eligible for consideration from the board.

((5)) (6) The legislature finds that sharing economic growth statewide is important to the welfare of the state. ((Rural counties and rural natural resources impact areas do not share in the economic vitality of the Puget Sound region.)) The ability of ((these)) communities to pursue business and job retention, expansion, and development opportunities depends on their capacity to ready necessary economic development project plans, sites, permits, and infrastructure for private investments. Project-specific planning, predevelopment, and infrastructure are critical ingredients for economic development. ((Rural counties and rural natural resources impact areas generally lack these necessary tools and resources to diversify and revitalize their economies.)) It is, therefore, the intent of the legislature to increase the amount of funding available through the community economic revitalization board ((for rural counties and rural natural resources impact areas,)) and to authorize flexibility for available resources in these areas to help fund planning,

predevelopment, and construction costs of infrastructure and facilities and sites that foster economic vitality and diversification.

Sec. 2. RCW 43.160.020 and 2004 c 252 s 1 are each amended to read as follows:

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

(1) "Board" means the community economic revitalization board.

(2) ("Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the board pursuant to this chapter.

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

((4) "Financial institution" means any bank, savings and loan association, credit union, development credit corporation, insurance company, investment company, trust company, savings institution, or other financial institution approved by the board and maintaining an office in the state.

(5) "Industrial development facilities" means "industrial development facilities" as defined in RCW 39.84.020.

(6) "Industrial development revenue bonds" means tax-exempt revenue bonds used to fund industrial development facilities.

(7)) (3) "Local government" or "political subdivision" means any port district, county, city, town, special purpose district, and any other municipal corporations or quasi-municipal corporations in the state providing for public facilities under this chapter.

((8) "Sponsor" means any of the following entities which customarily provide service or otherwise aid in industrial or other financing and are approved as a sponsor by the board: A bank, trust company, savings bank, investment bank, national banking association, savings and loan association, building and loan association, credit union, insurance company, or any other financial institution, governmental agency, or holding company of any entity specified in this subsection.

(9) "Umbrella bonds" means industrial development revenue bonds from which the proceeds are loaned, transferred, or otherwise made available to two or more users under this chapter.

(10) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and receiving or applying to receive revenues from bonds issued under this chapter.

(11)) (4) "Public facilities" means a project of a local government or a federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of bridges, roads, domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, telecommunications, transportation, natural gas, buildings or structures, and port facilities, all for the purpose of job creation, job retention, or job expansion.

((12)) (5) "Rural county" means a county with a population density of fewer than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles, as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.

((13) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets three of the five criteria set forth in subsection (14) of this section;

(b) A nonmetropolitan county with a population of less than forty thousand in the 1990 decennial census, that meets two of the five criteria as set forth in subsection (14) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets three of the five criteria set forth in subsection (14) of this section.

(14) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area of which any part is ten miles or more from an urbanized area is considered nonurbanized. A zip code totally surrounded by zip codes qualifying as nonurbanized under this definition is also considered nonurbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.))

Sec. 3. RCW 43.160.030 and 2004 c 252 s 2 are each amended to read as follows:

(1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of one member from each of the two major caucuses of the house of representatives to be appointed by the speaker of the house and one member from each of the two major caucuses of the senate to be appointed by the president of the senate. The board shall also consist of the following members appointed by the governor: A recognized private or public sector economist; one port district official; one county official; one city official; one representative of a federally recognized Indian tribe; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the governor. The members of the board shall elect one of their members to serve as vice-chair. The director of community, trade, and economic development, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Management services, including fiscal and contract services, shall be provided by the department to assist the board in implementing this chapter ((and the allocation of private activity bonds)).

(4) Members of the board shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW.

(6) A member appointed by the governor may not be absent from more than fifty percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation is deemed to have withdrawn from the office and may be replaced by the governor.

(7) A majority of members currently appointed constitutes a quorum.

Sec. 4. RCW 43.160.050 and 1996 c 51 s 4 are each amended to read as follows:

The board may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) Adopt an official seal and alter the seal at its pleasure.

(3) Utilize the services of other governmental agencies.

(4) Accept from any federal agency loans or grants for the planning or financing of any project and enter into an agreement with the agency respecting the loans or grants.

(5) Conduct examinations and investigations and take testimony at public hearings of any matter material for its information that will assist in determinations related to the exercise of the board's lawful powers.

(6) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter.

(7) ((Exercise all the powers of a public corporation under chapter 39.84 RCW.

(8) Invest any funds received in connection with industrial development revenue bond financing not required for immediate use, as the board considers appropriate, subject to any agreements with owners of bonds.

(9) Arrange for lines of credit for industrial development revenue bonds from and enter into participation agreements with any financial institution.

(10) Issue industrial development revenue bonds in one or more series for the purpose of defraying the cost of acquiring or improving any industrial development facility or facilities and securing the payment of the bonds as provided in this chapter.

(11)) Enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this chapter.

((12) Sell, purchase, or insure loans to finance the costs of industrial development facilities.

(13) Service, contract, and pay for the servicing of loans for industrial development facilities.

(14) Provide financial analysis and technical assistance for industrial development facilities when the board reasonably considers it appropriate.

(15) Collect, with respect to industrial development revenue bonds, reasonable interest, fees, and charges for making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments, and other evidences of indebtedness. Interest, fees, and charges are limited to the amounts required to pay the costs of the board, including operating and administrative expenses and reasonable allowances for losses that may be incurred.

(16) Procure insurance or guarantees from any party as allowable under law, including a governmental agency, against any

loss in connection with its lease agreements, loan agreements, mortgage loans, and other assets or property.

(17)) (8) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter.

((18)) (9) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter.

Sec. 5. RCW 43.160.060 and 2007 c 231 s 3 are each amended to read as follows:

The board is authorized to make direct loans to political subdivisions of the state and to federally recognized Indian tribes for the purposes of assisting the political subdivisions and federally recognized Indian tribes in financing the cost of public facilities, including development of land and improvements for public facilities, project-specific environmental, capital facilities, land use, permitting, feasibility, and marketing studies and plans; project design, site planning, and analysis; project debt and revenue impact analysis; as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision or the federally recognized Indian tribe and the finding by the board that financial circumstances require grant assistance to enable the project to move forward. However, ((at least ten)) no more than twenty-five percent of all financial assistance ((provided)) approved by the board in any biennium ((shall)) may consist of grants to political subdivisions and federally recognized Indian tribes.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

(1) The board shall not provide financial assistance:

(a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(b) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(c) ((For the acquisition of real property, including buildings and other fixtures which are a part of real property.

(d)) For a project the primary purpose of which is to facilitate or promote gambling.

(d) For a project located outside the jurisdiction of the applicant political subdivision or federally recognized Indian tribe.

(2) The board shall only provide financial assistance:

(a) For ((those projects which would result in specific private developments or expansions (i) in manufacturing, production, food processing, assembly, warehousing, advanced technology, research and development, and industrial distribution; (ii) for processing recyclable materials or for facilities that support recycling, including processes not currently provided in the state, including but not limited to, de-inking facilities, mixed waste paper, plastics, yard waste, and problem-waste processing; (iii) for manufacturing facilities that rely significantly on recyclable materials, including but not limited to waste tires and mixed waste paper; (iv) which support the relocation of businesses from nondistressed urban areas to rural counties or rural natural resources impact areas; or (v) which substantially support the trading of goods or services outside of the state's borders.

(b) For projects which it finds)) a project demonstrating convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made that:

(i) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board and is consistent with the state comprehensive economic development plan developed by the Washington economic development commission pursuant to chapter 43.162 RCW, once the plan is adopted; and

(ii) Will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities((.

(c) When the application includes convincing evidence that a specific private development or expansion is ready to occur and will occur only if the public facility improvement is made));

(b) For a project that cannot meet the requirement of (a) of this subsection but is a project that:

(i) Results in the creation of significant private sector jobs or significant private sector capital investment as determined by the board and is consistent with the state comprehensive economic development plan developed by the Washington economic development commission pursuant to chapter 43.162 RCW, once the plan is adopted;

(ii) Is part of a local economic development plan consistent with applicable state planning requirements;

(iii) Can demonstrate project feasibility using standard economic principles; and

(iv) Is located in a rural community as defined by the board, or a rural county;

(c) For site-specific plans, studies, and analyses that address environmental impacts, capital facilities, land use, permitting, feasibility, marketing, project engineering, design, site planning, and project debt and revenue impacts, as grants not to exceed fifty thousand dollars.

(3) The board shall develop guidelines for local participation and allowable match and activities.

(4) An application must demonstrate local match and local participation, in accordance with guidelines developed by the board.

(5) An application must be approved by the political subdivision and supported by the local associate development organization or local workforce development council or approved by the governing body of the federally recognized Indian tribe.

(6) The board may allow de minimis general system improvements to be funded if they are critically linked to the viability of the project.

(7) An application must demonstrate convincing evidence that the median hourly wage of the private sector jobs created after the project is completed will exceed the countywide median hourly wage.

(8) The board shall prioritize each proposed project according to:

(a) The relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed ((and according)), but also giving consideration to the unemployment rate in the area in which the jobs would be located;

(b) The rate of return of the state's investment, ((that includes the)) including, but not limited to, the leveraging of private sector investment, anticipated job creation and retention, and expected increases in state and local tax revenues associated with the project; ((and))

(c) Whether the proposed project offers a health insurance plan for employees that includes an option for dependents of employees;

(d) Whether the public facility investment will increase existing capacity necessary to accommodate projected population and

employment growth in a manner that supports infill and redevelopment of existing urban or industrial areas that are served by adequate public facilities. Projects should maximize the use of existing infrastructure and provide for adequate funding of necessary transportation improvements; and

(e) Whether the applicant has developed and adhered to guidelines regarding its permitting process for those applying for development permits consistent with section 1(2), chapter 231, Laws of 2007.

((4)) (9) A responsible official of the political subdivision or the federally recognized Indian tribe shall be present during board deliberations and provide information that the board requests.

Before any financial assistance application is approved, the political subdivision or the federally recognized Indian tribe seeking the assistance must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board.

Sec. 6. RCW 43.160.070 and 1999 c 164 s 104 are each amended to read as follows:

Public facilities financial assistance, when authorized by the board, is subject to the following conditions:

(1) The moneys in the public facilities construction loan revolving account ((and the distressed county public facilities construction loan account)) shall be used solely to fulfill commitments arising from financial assistance authorized in this chapter ((or, during the 1989-91 fiscal biennium, for economic development purposes as appropriated by the legislature)). The total outstanding amount which the board shall dispense at any time pursuant to this section shall not exceed the moneys available from the account(s). ((The total amount of outstanding financial assistance in Pierce, King, and Snohomish counties shall never exceed sixty percent of the total amount of outstanding financial assistance disbursed by the board under this chapter without reference to financial assistance provided under RCW 43.160.220.))

(2) On contracts made for public facilities loans the board shall determine the interest rate which loans shall bear. The interest rate shall not exceed ten percent per annum. The board may provide reasonable terms and conditions for repayment for loans, including partial forgiveness of loan principal and interest payments on projects located in rural communities as defined by the board, or rural counties ((or rural natural resources impact areas, as the board determines)). The loans shall not exceed twenty years in duration.

(3) Repayments of loans made from the public facilities construction loan revolving account under the contracts for public facilities construction loans shall be paid into the public facilities construction loan revolving account. ((Repayments of loans made from the distressed county public facilities construction loan account under the contracts for public facilities construction loans shall be paid into the distressed county public facilities construction loan account.)) Repayments of loans from moneys from the new appropriation from the public works assistance account for the fiscal biennium ending June 30, 1999, shall be paid into the public works assistance account.

(4) When every feasible effort has been made to provide loans and loans are not possible, the board may provide grants upon finding that unique circumstances exist.

Sec. 7. RCW 43.160.074 and 1985 c 433 s 5 are each amended to read as follows:

(1) An application to the board from a political subdivision may also include a request for improvements to an existing state highway or highways. The application is subject to all of the applicable criteria relative to qualifying types of development set forth in this chapter, as well as procedures and criteria established by the board.

(2) Before board consideration of an application from a political subdivision that includes a request for improvements to an existing state highway or highways, the application shall be forwarded by the board to the department of transportation ((commission)).

(3) The board may not make its final determination on any application made under subsection (1) of this section before receiving approval, as submitted or amended or disapproval from the department of transportation ((commission)) as specified in RCW 47.01.280. Notwithstanding its disposition of the remainder of any such application, the board may not approve a request for improvements to an existing state highway or highways without the approval as submitted or amended of the department of transportation ((commission)) as specified in RCW 47.01.280.

(4) The board shall notify the department of transportation ((commission)) of its decision regarding any application made under this section.

Sec. 8. RCW 43.160.076 and 1999 c 164 s 105 are each reenacted and amended to read as follows:

(1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for financial assistance in a biennium under this chapter ((without reference to financial assistance provided under RCW 43.160.220)), the board shall ((spend)) approve at least seventy-five percent of the first twenty million dollars of funds available and at least fifty percent of any additional funds for financial assistance for projects in rural counties ((or rural natural resources impact areas)).

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in rural counties ((or rural natural resources impact areas)) are clearly insufficient to use up the ((seventy-five percent)) allocations under subsection (1) of this section, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for financial assistance to projects not located in rural counties ((or rural natural resources impact areas)).

Sec. 9. RCW 43.160.900 and 1993 c 320 s 8 are each amended to read as follows:

(1) The community economic revitalization board shall ((report to the appropriate standing committees of the legislature biennially on the implementation of)) conduct biennial outcome-based evaluations of the financial assistance provided under this chapter. The ((report)) evaluations shall include information on the number of applications for community economic revitalization board assistance((,)); the number and types of projects approved((,)); the grant or loan amount awarded each project((,)); the projected number of jobs created or retained by each project((,)); the actual number and cost of jobs created or retained by each project((,)); the wages and health benefits associated with the jobs; the amount of state funds and total capital invested in projects; the number and types of businesses assisted by funded projects; the location of funded projects; the transportation infrastructure available for completed projects; the local match and local participation obtained; the number of delinquent loans((,)); and the number of project terminations. The ((report)) evaluations may also include additional performance

measures and recommendations for programmatic changes. ((The first report shall be submitted by December 1, 1994.))

(2)(a) By September 1st of each even-numbered year, the board shall forward its draft evaluation to the Washington state economic development commission for review and comment, as required in section 10 of this act. The board shall provide any additional information as may be requested by the commission for the purpose of its review.

(b) Any written comments or recommendations provided by the commission as a result of its review shall be included in the board's completed evaluation. The evaluation must be presented to the governor and appropriate committees of the legislature by December 31st of each even-numbered year. The initial evaluation must be submitted by December 31, 2010.

NEW SECTION. Sec. 10. A new section is added to chapter 43.162 RCW to read as follows:

The Washington state economic development commission shall review and provide written comments and recommendations for inclusion in the biennial evaluation conducted by the community economic revitalization board under RCW 43.160.900.

Sec. 11. RCW 43.160.080 and 1998 c 321 s 30 are each amended to read as follows:

There shall be a fund in the state treasury known as the public facilities construction loan revolving account, which shall consist of all moneys collected under this chapter((, except moneys of the board collected in connection with the issuance of industrial development revenue bonds and moneys deposited in the distressed county public facilities construction loan account under RCW 43.160.220,)) and any moneys appropriated to it by law((: PROVIDED, That seventy-five percent of all principal and interest payments on loans made with the proceeds deposited in the account under section 901, chapter 57, Laws of 1983 1st ex. sess. shall be deposited in the general fund as reimbursement for debt service payments on the bonds authorized in RCW 43.83.184)). Disbursements from the revolving account shall be on authorization of the board. In order to maintain an effective expenditure and revenue control, the public facilities construction loan revolving account shall be subject in all respects to chapter 43.88 RCW.

NEW SECTION. Sec. 12. (1) The legislature recognizes that although many regions of the state are thriving, there are still distressed communities throughout rural and urban Washington where capital investments in community services initiatives could create vibrant local business districts and prosperous neighborhoods.

(2) The legislature also recognizes that nonprofit organizations provide a variety of community services that serve the needs of the citizens of Washington, including many services implemented under contract with state agencies. The legislature also finds that the efficiency and quality of these services may be enhanced by the provision of safe, reliable, and sound facilities, and that, in certain cases, it may be appropriate for the state to assist in the development of these facilities.

(3) The legislature finds that providing these capital investments is critical for the economic health of local distressed communities, helps build strong relationships with the state, and expands life opportunities for underserved, low-income populations.

NEW SECTION. Sec. 13. A new section is added to chapter 43.63A RCW to read as follows:

The definitions in this section apply throughout RCW 43.63A.125, this section, and sections 14 and 16 of this act unless the context clearly requires otherwise.

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

(2) "Distressed community" means: (a) A county that has an unemployment rate that is twenty percent above the state average for the immediately previous three years; (b) an area within a county that the department determines to be a low-income community, using as guidance the low-income community designations under the community development financial institutions fund's new markets tax credit program of the United States department of the treasury; or (c) a school district in which at least fifty percent of local elementary students receive free and reduced-price meals.

(3) "Nonprofit organization" means an organization that is tax exempt, or not required to apply for an exemption, under section 501(c)(3) of the federal internal revenue code of 1986, as amended.

(4) "Technical assistance" means professional services provided under contract to nonprofit organizations for feasibility studies, planning, and project management related to acquiring, constructing, or rehabilitating nonresidential community services facilities.

NEW SECTION. Sec. 14. A new section is added to chapter 43.63A RCW to read as follows:

The building communities fund account is created in the state treasury. The account shall consist of legislative appropriations and gifts, grants, or endowments from other sources as permitted by law. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for capital and technical assistance grants as provided in RCW 43.63A.125.

Sec. 15. RCW 43.63A.125 and 2006 c 371 s 233 are each amended to read as follows:

(1) The department shall establish ((a competitive process to solicit proposals for and prioritize projects that assist nonprofit organizations in)) the building communities fund program. Under the program, capital and technical assistance grants may be made to nonprofit organizations for acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential ((social)) community services, including social service centers and multipurpose community centers, including those serving a distinct or ethnic population. Such facilities must be located in a distressed community or serve a substantial number of low-income or disadvantaged persons.

(2) The department shall establish a competitive process to ((prioritize)) solicit and evaluate applications for the ((assistance)) building communities fund program as follows:

(a) The department shall conduct a statewide solicitation of project applications from ((local governments,)) nonprofit organizations((, and other entities, as determined by the department)).

(b) The department shall evaluate ((and rank)) applications in consultation with a citizen advisory committee using objective criteria. ((At a minimum)) To be considered qualified, applicants must demonstrate that the ((requested assistance)) proposed project:

(i) Will increase the range, efficiency, or quality of the ((social)) services ((it provides)) provided to citizens;

(ii) Will be located in a distressed community or will serve a substantial number of low-income or disadvantaged persons;

(iii) Will offer a diverse set of activities that meet multiple community service objectives, including but not limited to: Providing social services; expanding employment opportunities for or increasing the employability of community residents; or offering

educational or recreational opportunities separate from the public school system or private schools, as long as recreation is not the sole purpose of the facility;

(iv) Reflects a long-term vision for the development of the community, shared by residents, businesses, leaders, and partners;

(v) Requires state funding to accomplish a discrete, usable phase of the project;

(vi) Is ready to proceed and will make timely use of the funds;

(vii) Is sponsored by one or more entities that have the organizational and financial capacity to fulfill the terms of the grant agreement and to maintain the project into the future;

(viii) Fills an unmet need for community services;

(ix) Will achieve its stated objectives; and

(x) Is a community priority as shown through tangible commitments of existing or future assets made to the project by community residents, leaders, businesses, and government partners.

(c) The evaluation ((and ranking)) process shall also include an examination of existing assets that applicants may apply to projects. Grant assistance under this section shall not exceed twenty-five percent of the total cost of the project, except, under exceptional circumstances, the department may reduce the amount of nonstate match required. The nonstate portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

((b)) The department shall submit a prioritized list of recommended projects to the governor and the legislature in the department's biennial capital budget request beginning with the 2001-2003 biennium and thereafter. For the 1999-2001 biennium, the department shall conduct a solicitation and ranking process, as described in (a) of this subsection, for projects to be funded by appropriations provided for this program in the 1999-2001 capital budget. The list shall include a description of each project, the amount of recommended state funding, and documentation of nonstate funds to be used for the project.

The total amount of recommended state funding for projects on a biennial project list shall not exceed ten million dollars. Except for the 1999-2001 biennium, the department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(c)) (d) The department may not set a monetary limit to funding requests.

(3) The department shall submit annually to the governor and the legislature in the department's capital budget request an unranked list of the qualified eligible projects for which applications were received. The list must include a description of each project, its total cost, and the amount of state funding requested. The appropriate fiscal committees of the legislature shall use this list to determine building communities fund projects that may receive funding in the capital budget. The total amount of state capital funding available for all projects on the annual list shall be determined by the capital budget beginning with the 2009-2011 biennium and thereafter. In addition, if cash funds have been appropriated, up to three million dollars may be used for technical assistance grants. The department shall not sign contracts or otherwise financially obligate funds under this section until the legislature has approved a specific list of projects.

(4) In addition to the list of qualified eligible projects, the department shall submit to the appropriate fiscal committees of the legislature a summary report that describes the solicitation and evaluation processes, including but not limited to the number of applications received, the total amount of funding requested, issues

encountered, if any, and any recommendations for process improvements.

(5) After the legislature has approved a specific list of projects in law, the department shall develop and manage appropriate contracts with the selected applicants; monitor project expenditures and grantee performance; report project and contract information; and exercise due diligence and other contract management responsibilities as required.

(6) In contracts for grants authorized under this section the department shall include provisions which require that capital improvements shall be held by the grantee for a specified period of time appropriate to the amount of the grant and that facilities shall be used for the express purpose of the grant. If the grantee is found to be out of compliance with provisions of the contract, the grantee shall repay to the state general fund the principal amount of the grant plus interest calculated at the rate of interest on state of Washington general obligation bonds issued most closely to the date of authorization of the grant.

NEW SECTION. Sec. 16. A new section is added to chapter 43.63A RCW to read as follows:

(1) The department shall develop accountability and reporting standards for grant recipients. At a minimum, the department shall use the criteria listed in RCW 43.63A.125(2)(b) to evaluate the progress of each grant recipient.

(2) Beginning January 1, 2011, the department shall submit an annual report to the appropriate committees of the legislature, including:

(a) A list of projects currently under contract with the department under the building communities fund program; a description of each project, its total cost, the amount of state funding awarded and expended to date, the project status, the number of low-income people served, and the extent to which the project has met the criteria in RCW 43.63A.125(2)(b); and

(b) Recommendations, if any, for policy and programmatic changes to the building communities fund program to better achieve program objectives.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

(1) RCW 43.160.100 (Status of board) and 1984 c 257 s 3;
 (2) RCW 43.160.120 (Commingling of funds prohibited) and 1984 c 257 s 5;

(3) RCW 43.160.130 (Personal liability) and 1984 c 257 s 6;
 (4) RCW 43.160.140 (Accounts) and 1987 c 422 s 8 & 1984 c 257 s 7;

(5) RCW 43.160.150 (Faith and credit not pledged) and 1984 c 257 s 8;

(6) RCW 43.160.160 (Security) and 1984 c 257 s 9;
 (7) RCW 43.160.170 (Special reserve account) and 1984 c 257 s 10;

(8) RCW 43.160.200 (Economic development account--Eligibility for assistance) and 2004 c 252 s 4, 1999 c 164 s 107, 1996 c 51 s 9, & 1995 c 226 s 16;

(9) RCW 43.160.210 (Distressed counties--Twenty percent of financial assistance) and 1998 c 321 s 31 & 1998 c 55 s 5;

(10) RCW 43.160.220 (Distressed county public facilities construction loan account) and 1998 c 321 s 9;

(11) RCW 43.160.230 (Job development fund program) and 2007 c 231 s 4 & 2005 c 425 s 2;

(12) RCW 43.160.240 (Job development fund program--Maximum grants) and 2005 c 425 s 3; and

(13) RCW 44.28.801 (State public infrastructure programs and funds--Inventory--Report) and 2006 c 371 s 229 & 2005 c 425 s 5.

NEW SECTION. Sec. 18. Sections 1, 2, 4 through 11, and 17 of this act take effect July 1, 2009.

NEW SECTION. Sec. 19. Section 3 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Representative Bailey moved the adoption of amendment (1567) to amendment (1566):

On page 9, line 33 of the striking amendment, after "board" strike all material through "adopted" on line 35

On page 10, line 11 of the striking amendment, after "board" strike all material through "adopted" on line 13

On page 10, beginning on line 36 of the striking amendment, strike all of subsection (7)

Renumber the subsections consecutively and correct any internal references accordingly.

On page 11, line 11 of the striking amendment, strike "((and))" and insert "and"

On page 11, line 12 of the striking amendment, after "(c)" strike all material through "(e)" on line 21

On page 14, line 15 of the striking amendment, after "and" strike "health"

On page 15, beginning on line 25 of the striking amendment, strike all of sections 12, 13, 14, 15, and 16

Renumber the sections consecutively and correct any internal references accordingly.

Representative Bailey, Chandler and Orcutt spoke in favor of the adoption of the amendment to amendment (1566).

Representative Ormsby spoke against the adoption of the amendment to amendment (1566).

An electronic roll call was requested.

The Speaker (Representative Morris presiding) stated the question before the House to be the adoption of amendment (1567) to amendment (1566) to Second Substitute Senate Bill No. 6855.

ROLL CALL

The Clerk called the roll on the adoption of amendment (1567) to amendment (1566) to Second Substitute Senate Bill

No. 6855, and the amendment was not adopted by the following vote: Yeas - 39, Nays - 58, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Campbell, Chandler, Condotta, Crouse, DeBolt, Dunn, Eickmeyer, Ericksen, Grant, Haler, Hankins, Herrera, Hinkle, Hunter, Jarrett, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Schmick, Skinner, Smith, Sump, Walsh and Warnick - 39.

Voting nay: Representatives Barlow, Blake, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Ericks, Flannigan, Fromhold, Goodman, Green, Haigh, Hasegawa, Hudgins, Hunt, Hurst, 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, Williams, Wood and Mr. Speaker - 58.

Excused: Representative Hailey - 1.

Representative Ormsby spoke in favor of the adoption of the amendment (1566).

Representative Bailey spoke against the adoption of the amendment (1566).

The amendment (1566) was adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill as amended by the House, was placed on final passage.

Representative Kenney spoke in favor of passage of the bill.

Representative Newhouse spoke against passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 6855, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 6855, as amended by the House, and the bill passed the House by the following vote: Yeas - 64, Nays - 33, Absent - 0, Excused - 1.

Voting yea: Representatives Appleton, Armstrong, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, 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, Williams, Wood and Mr. Speaker - 64.

Voting nay: Representatives Ahern, Alexander, Anderson, Bailey, Chandler, Condotta, Crouse, DeBolt, Dunn, Eickmeyer, Ericksen, Haler, Hankins, Herrera, Hinkle, Kretz, Kristiansen, McCune, McDonald, Newhouse, Orcutt, Pearson, Priest, Roach, Rodne, Ross, Schindler, Schmick, Skinner, Smith, Sump, Walsh and Warnick - 33.

Excused: Representative Hailey - 1.

SECOND SUBSTITUTE SENATE BILL NO. 6855, as amended by the House, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on Second Substitute Senate Bill No. 6855.

MIKE ARMSTRONG, 12th District

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

MESSAGE FROM THE SENATE

March 12, 2008

Mr. Speaker:

The President ruled that the amendment is outside the "scope and object" of the measure. The Senate insists on its position to ENGROSSED SUBSTITUTE SENATE BILL NO. 5831 and asks the House for a conference thereon. The President has appointed the following members as conferees: Senators Kohl-Welles, King and Keiser, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment, the rules were suspended and ENGROSSED SUBSTITUTE SENATE BILL NO. 5831 was returned to second reading for purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 5831 by Senate Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Franklin, Keiser, and Murray)

An Act Relating to creating the joint legislative task force on heating, ventilation, air conditioning, and refrigeration.

With the consent of the House, amendment (1569) was withdrawn.

Representative Conway moved the adoption of amendment (1571):

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1)(a) Whereas it is necessary for the public health and safety to create statewide contractor registration and mechanic certification requirements, a joint legislative task force on the heating, ventilating, air conditioning, and refrigeration industry is established, with members as provided in this subsection.

(i) The chair and the ranking member of the senate labor, commerce, research and development committee.

(ii) The chair and the ranking member of the house commerce and labor committee.

(iii) The majority leader of the senate shall appoint one member from each of the two largest caucuses of the senate.

(iv) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(v) Four members representing business, selected from nominations submitted by business organizations representing heating, ventilating, air conditioning, and refrigeration contractors and appointed jointly by the majority leader of the senate and the speaker of the house of representatives. At least one business representative shall be from a county that has a contiguous border with another state;

(vi) Four members representing labor, selected from nominations submitted by statewide labor organizations representing heating, ventilating, air conditioning, and refrigeration trades and appointed jointly by the majority leader of the senate and the speaker of the house of representatives. At least one labor representative shall be from a county that has a contiguous border with another state; and

(vii) One member representing the department of labor and industries.

(b) The cochairs of the task force shall be the chair of the senate labor, commerce, research and development committee, and the chair of the house commerce and labor committee.

(2) The joint legislative task force shall review the following issues in the context of the framework set forth in Senate Bill No. 5831 and Joint Legislative Audit and Review Committee Report No. 05-12 on HVAC/R licensing and testing requirements:

(a) Requirements for certifying heating, ventilating, air conditioning, and refrigeration mechanics;

(b) Methods of registering heating, ventilating, air conditioning, and refrigeration contractors who qualify for two or more registrations or licenses;

(c) Establishing at least three levels of heating, ventilating, air conditioning, and refrigeration mechanics with the ability to be certified in several specialties including: (i) Heating, ventilating, and air conditioning; (ii) refrigeration; and (iii) gas piping;

(d) The experience requirements for each mechanic level;

(e) The methods by which apprentices and other persons learning to perform heating, ventilating, air conditioning, and refrigeration work obtain training certificates;

(f) Exemptions to the registration or certification requirements; and

(g) Such other factors the joint legislative task force deems necessary.

(3) Legislative members of the joint legislative task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(4) The expenses of the joint legislative task force shall be paid jointly by the senate and the house of representatives.

(5) The joint legislative task force shall report its findings and recommendations to the legislature by December 1, 2008.

(6) This section expires January 1, 2009."

Correct the title.

Representatives Conway and Condotta spoke in favor of the adoption of the amendment.

The amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third, and the bill, as amended by the House, was placed on final passage.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 5831, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 5831, as amended by the House, and the bill passed the House by the following vote: Yeas - 95, Nays - 2, Absent - 0, Excused - 1.

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, 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 95.

Voting nay: Representatives McCune, and McDonald - 2.
Excused: Representative Hailey - 1.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5831, as amended by the House, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote NAY on Engrossed Substitute Senate Bill No. 5831.

DAN KRISTIANSEN, 39th District

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

There being no objection, the Committee on Rules was relieved of further consideration of SECOND SUBSTITUTE SENATE BILL NO. 6227, and the bill was placed on the Second Reading calendar.

RESOLUTION

HOUSE RESOLUTION NO. 4712, By Representatives Chopp, DeBolt, Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, 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, Skinner, Smith, Sommers, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams and Wood

WHEREAS, It is the policy of the Washington state legislature to recognize excellence in all fields of endeavor; and

WHEREAS, Bob Sump has exhibited true excellence during his tenure as state representative for the citizens of the 7th legislative district, comprised of Ferry, Stevens, Lincoln, and Pend Oreille counties, and parts of Spokane and Okanogan counties; and

WHEREAS, Bob Sump and his wife of 48 years, Brenda, have 3 grown children, 7 grandchildren, and 7 great-grandchildren; and

WHEREAS, Bob Sump has a degree from Sound Baptist College; and

WHEREAS, Bob Sump has been employed in the mining industry for 26 years; and

WHEREAS, Bob Sump served as state representative from the 7th legislative district from 1997-2008, and over his years in the House has served in the majority, the minority, and the House of Representatives

tie, as a co-chair, vice-chair, and ranking member, and on the K-12, Natural Resources and Parks, Agriculture and Ecology, Appropriations, Transportation, Technology, Energy and Communications, Hood Canal, Environmental Health, and Rules committees; and

WHEREAS, Bob Sump is respected for his Christian faith, his sincerity, his honesty, his kindness, and his friendship;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives of the state of Washington honor Bob Sump for his years of dedicated service, his personal and professional integrity, and his faithfulness to the principles and ideals that he worked so diligently for on behalf of the citizens of this state; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Bob Sump.

Representative DeBolt moved the adoption of the resolution.

Representatives DeBolt, Upthegrove, Kretz, Hudgins, Orcutt, Pearson, Campbell, Hunt, Eickmeyer and Ahern spoke in favor of the adoption of the resolution.

HOUSE RESOLUTION NO. 4712 was adopted.

MESSAGES FROM THE SENATE

March 12, 2008

Mr. Speaker:

The Senate has passed SENATE BILL NO. 6657, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

March 12, 2008

Mr. Speaker:

The President has signed:

- SUBSTITUTE HOUSE BILL NO. 1141,
- THIRD SUBSTITUTE HOUSE BILL NO. 2053,
- HOUSE BILL NO. 2460,
- HOUSE BILL NO. 2467,
- ENGROSSED HOUSE BILL NO. 2476,
- SECOND SUBSTITUTE HOUSE BILL NO. 2479,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 2480,
- SUBSTITUTE HOUSE BILL NO. 2482,
- HOUSE BILL NO. 2542,
- HOUSE BILL NO. 2544,
- SUBSTITUTE HOUSE BILL NO. 2551,
- SECOND SUBSTITUTE HOUSE BILL NO. 2635,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2647,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2668,
- HOUSE BILL NO. 2678,
- SUBSTITUTE HOUSE BILL NO. 2679,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2712,
- SECOND SUBSTITUTE HOUSE BILL NO. 2722,
- SUBSTITUTE HOUSE BILL NO. 2729,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2783,
- ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2817,

SUBSTITUTE HOUSE BILL NO. 3120,
 SUBSTITUTE HOUSE BILL NO. 3144,
 SUBSTITUTE HOUSE BILL NO. 3149,
 HOUSE BILL NO. 3188,
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3205,
 SUBSTITUTE HOUSE BILL NO. 3212,
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 3254,
 HOUSE BILL NO. 3375,

and the same are herewith transmitted.

Thomas Hoemann, Secretary

There being no objection, the House reverted to the fourth order of business.

INTRODUCTION & FIRST READING

SB 6657 by Senators Murray, Fraser and Rasmussen

AN ACT Relating to salary bonuses for individuals certified by the national board for professional teaching standards; amending RCW 28A.405.415; and reenacting and amending RCW 41.32.010.

There being no objection, SENATE BILL NO. 6657 was read the first time, the rules were suspended and the bill was placed on the Second Reading calendar.

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

There being no objection, HOUSE BILL NO. 3003 was referred to the Committee on Rules.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

SENATE BILL NO. 6638, By Senators Murray, Roach, McAuliffe, Kohl-Welles, Fairley, Kline, Kauffman, Jacobsen, Eide and Pflug

Reallocating existing lodging taxes for heritage and arts programs in a county with a population of one million or more.

The bill was read the second time.

With the consent of the House, amendment (1555) was withdrawn.

Representative Orcutt moved the adoption of amendment (1562):

On page 5, line 6, after "subsection" insert "; however, the county must deposit an equivalent amount in the stadium and exhibition center account under RCW 43.99N.060 during this period"

POINT OF ORDER

Representative Springer requested a scope and object ruling on amendment (1562) to Senate Bill No. 6638.

SPEAKER'S RULING

The Speaker (Representative Morris presiding): "The title of Senate Bill No. 6638 is an act relating to reallocation of existing lodging taxes for support of heritage and arts programs in a county with a population of one million or more. Amendment (1562) requires the county subject to the legislation to deposit funds into a stadium and exhibition center account. These funds may or may not be derived from lodging taxes and are not related to the support of heritage and arts programs. The Speaker therefore finds the amendment is not within the scope of the bill's title.

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

Representative Orcutt moved the adoption of amendment (1564):

On page 6, line 6, after "subsection" insert "and art programs in the public schools of the county. The funds in the account shall be distributed equally between the allowable purposes.

The county treasurer shall distribute funds for arts programs in the public schools based on the number of full-time equivalent students and current resources being utilized for these programs. Beginning December 1, 2009, and each year thereafter, the office of the superintendent of public instruction shall provide a report to the fiscal committees of the legislature summarizing the amounts received by each public school district in the county from the distributions in this section and specific arts program activities funded from these distributions."

Renumber the sections consecutively and correct any internal references accordingly.

Representative Orcutt spoke in favor of the adoption of the amendment.

Representative Hunter spoke against the adoption of the amendment.

The amendment was not adopted.

Representative Hunter moved the adoption of amendment (1573):

On page 7, line 14, after "affected." insert "Section 2, chapter . . ., Laws of 2008 (section 2 of this act), expires July 1, 2009."

Representative Hunter spoke in favor of the adoption of the amendment.

Representative Orcutt spoke against the adoption of the amendment.

The amendment was adopted.

Representative Orcutt moved the adoption of amendment (1563):

On page 8, line 12, strike all of section 5 and insert the following:

"NEW SECTION. Sec. 5. This act takes effect on January 1 of the immediately succeeding year following the year in which a majority of the voters voting in a county with a population of more than one million five hundred thousand approve the provisions of this act."

Correct the title.

Representative Orcutt spoke in favor of the adoption of the amendment.

Representative Hunter spoke against the adoption of the amendment.

The amendment was not adopted.

There being no objection, the rules were suspended, the second reading considered the third and the bill, as amended by the House, was placed on final passage.

Representative Hunter spoke in favor of passage of the bill.

Representative Orcutt spoke against the passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Senate Bill No. 6638, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 6638, as amended by the House, and the bill passed the House by the following vote: Yeas - 67, Nays - 30, Absent - 0, Excused - 1.

Voting yea: Representatives Anderson, Appleton, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunshee, Eddy, Eickmeyer, Ericks, Flannigan, Fromhold, Goodman, Grant, Haigh, Hankins, Hasegawa, Hudgins, Hunt, Hunter, Hurst, Jarrett, Kagi, Kenney, Kessler, Kirby, Lantz, Liias, Loomis, McCoy, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen,

Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Santos, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Sommers, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Williams, Wood and Mr. Speaker - 67.

Voting nay: Representatives Ahern, Alexander, Armstrong, Bailey, Chandler, Condotta, Crouse, DeBolt, Dunn, Ericksen, Green, Haler, Herrera, Hinkle, Kelley, Kretz, Kristiansen, Linville, McCune, McDonald, Newhouse, Orcutt, Pearson, Ross, Schindler, Schmick, Smith, Sump, Walsh and Warnick - 30.

Excused: Representative Hailey - 1.

SENATE BILL NO. 6638, as amended by the House, having received the necessary constitutional majority, was declared passed.

SECOND SUBSTITUTE SENATE BILL NO. 6227, By Senator Jacobsen

Providing support and resources to outer coast marine resources committees.

The bill was read the second time.

There being no objection, the committee amendment by the Appropriations Subcommittee on General Government & Audit Review was not adopted. (For Committee amendment, see Journal, 50th Day, March 3, 2008.)

Representative Nelson moved the adoption of amendment (1574):

On page 3, after line 28, insert the following:

"(4)(a) As part of its administrator duties, the department of fish and wildlife must conduct a study as to the effectiveness of the existing hydraulic project approval process under chapter 77.55 RCW in helping marine resource committees protect fish life.

(b) The study required by this section must consider the effectiveness of legislative enactments, the actual implementation of those enactments by the department of fish and wildlife, the benefits the hydraulic approval process has on marine resources committees, and the impact that historic funding levels for the program have on the effectiveness of the program. The study must focus on both the level of compliance with chapter 77.55 RCW and on the final degree of fish life protection that is achieved even in instances of full compliance.

(c) Prior to the final release of the study required by this section, a majority of the members of the fish and wildlife commission must vote to affirm that the study has been fully completed.

(d) The requirements of this section must be completed as readily as funds allow, while still allowing a full and complete study. To satisfy this section, the department of fish and wildlife may use any funds appropriated to it for this specific purpose, any available nondesignated funds in control of the department of fish and wildlife, and any private donations provided to the department of fish and wildlife for the purposes of this section.

(e) The department of fish and wildlife may not, within an area designated as an aquatic reserve by the commissioner of public lands, approve or renew any approvals under chapter 77.55 RCW for any commercial, industrial, or barge loading facilities that may accommodate the removal of sand and gravel until the study required by this section is completed. In addition, any approvals issued or renewed by the department of fish and wildlife under chapter 77.55 RCW for any project impacting land described in this subsection after June 30, 2007, that are under appeal as of the effective date of this section may not be advanced to a final decision that allows the permitted project to begin construction until the requirements of this section are completed."

POINT OF ORDER

Representative Kretz requested a scope and object ruling on amendment (1574) to Second Substitute Senate Bill No. 6227.

SPEAKER'S RULING

The Speaker (Representative Morris presiding): "Second Substitute Senate Bill No. 6227 is titled an act relating to strengthening Washington's outer coast marine resources committees. The bill addresses administrative structure and enhanced support for outer coast marine resources committees established under 36.125 RCW. Amendment (1574) requires the Department of Fish and Wildlife to undertake a study of the effectiveness of the hydraulic permit program under 77.55RCW and limits the authority of the department to issue hydraulic permits in certain aquatic reserves for any commercial, industrial, or barge loading facilities that may accommodate the removal of sand and gravel. The amendment applies to areas other than those served by outer coast marine resources committees and is unrelated to the administrative structure and enhanced support of such committees. The Speaker therefore finds the amendment is beyond the scope and object of the bill.

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

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Blake and Kretz spoke in favor of passage of the bill.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Second Substitute Senate Bill No. 6227.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute Senate Bill No. 6227 and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

SECOND SUBSTITUTE SENATE BILL NO. 6227, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 12, 2008

Mr. Speaker:

The Senate receded from its amendment to SECOND SUBSTITUTE HOUSE BILL NO. 1273. Under suspension of the rules the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 43.330 RCW to read as follows:

(1) The financial fraud and identity theft crimes investigation and prosecution program is created in the department of community, trade, and economic development. The department shall:

(a) Appoint members of the financial fraud task forces created in subsection (2) of this section;

(b) Administer the account created in subsection (3) of this section; and

(c) By December 31st of each year submit a report to the appropriate committees of the legislature and the governor regarding the progress of the program and task forces. The report must include recommendations on changes to the program, including expansion.

(2)(a) The department shall establish two regional financial fraud and identity theft crime task forces that include a central Puget Sound task force that includes King and Pierce counties, and a Spokane county task force. Each task force must be comprised of local law enforcement, county prosecutors, representatives of the office of the attorney general, financial institutions, and other state and local law enforcement.

(b) The department shall appoint: (i) Representatives of local law enforcement from a list provided by the Washington association of sheriffs and police chiefs; (ii) representatives of county prosecutors

from a list provided by the Washington association of prosecuting attorneys; and (iii) representatives of financial institutions.

(c) Each task force shall:

(i) Hold regular meetings to discuss emerging trends and threats of local financial fraud and identity theft crimes;

(ii) Set priorities for the activities for the task force;

(iii) Apply to the department for funding to (A) hire prosecutors and/or law enforcement personnel dedicated to investigating and prosecuting financial fraud and identity theft crimes; and (B) acquire other needed resources to conduct the work of the task force;

(iv) Establish outcome-based performance measures; and

(v) Twice annually report to the department regarding the activities and performance of the task force.

(3) The financial fraud and identity theft crimes investigation and prosecution account is created in the state treasury. Moneys in the account may be spent only after appropriation. Revenue to the account may include appropriations, revenues generated by the surcharge imposed in section 2 of this act, federal funds, and any other gifts or grants. Expenditures from the account may be used only to support the activities of the financial fraud and identity theft crime investigation and prosecution task forces and the program administrative expenses of the department, which may not exceed ten percent of the amount appropriated.

(4) For purposes of this section, "financial fraud and identity theft crimes" includes those that involve: Check fraud, chronic unlawful issuance of bank checks, embezzlement, credit/debit card fraud, identity theft, forgery, counterfeit instruments such as checks or documents, organized counterfeit check rings, and organized identification theft rings.

Sec. 2. RCW 62A.9A-525 and 2000 c 250 s 9A-525 are each amended to read as follows:

(a) Filing with department of licensing. Except as otherwise provided in subsection (b) or (e) of this section, the fee for filing and indexing a record under this part is the fee set by department of licensing rule pursuant to subsection (f) of this section. Without limitation, different fees may be charged for:

(1) A record that is communicated in writing and consists of one or two pages;

(2) A record that is communicated in writing and consists of more than two pages, which fee may be a multiple of the fee described in (1) of this subsection; and

(3) A record that is communicated by another medium authorized by department of licensing rule, which fee may be a fraction of the fee described in (1) of this subsection.

(b) Filing with other filing offices. Except as otherwise provided in subsection (e) of this section, the fee for filing and indexing a record under this part that is filed in a filing office described in RCW 62A.9A-501(a)(1) is the fee that would otherwise be applicable to the recording of a mortgage in that filing office, as set forth in RCW 36.18.010.

(c) Number of names. The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b) of this section.

(d) Response to information request. The fee for responding to a request for information from a filing office, including for issuing a certificate showing, or otherwise communicating, whether there is on file any financing statement naming a particular debtor, is the fee set by department of licensing rule pursuant to subsection (f) of this section; provided however, if the request is to a filing office described in RCW 62A.9A-501(a)(1) and that office charges a

different fee, then that different fee shall apply instead. Without limitation, different fees may be charged:

(1) If the request is communicated in writing;

(2) If the request is communicated by another medium authorized by filing-office rule; and

(3) If the request is for expedited service.

(e) Record of mortgage. This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under RCW 62A.9A-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) Filing office rules. (1) The department of licensing shall by rule set the fees called for in this section for filing with, and obtaining information from, the department of licensing. The director shall set fees at a sufficient level to defray the costs of administering the program. All receipts from fees collected under this title, except fees for services covered under RCW 62A.9A-501(a)(1), shall be deposited to the uniform commercial code fund in the state treasury. Moneys in the fund may be spent only after appropriation and may be used only to administer the uniform commercial code program.

(2) In addition to fees on filings authorized under this section, the department of licensing shall impose a surcharge of eight dollars per filing for paper filings and a surcharge of three dollars per filing for electronic filings. The department shall deposit the proceeds from these surcharges in the financial fraud and identity theft crimes investigation and prosecution account created in section 1 of this act.

(g) Transition. This section continues the fee-setting authority conferred on the department of licensing by former RCW 62A.9-409 and nothing herein shall invalidate fees set by the department of licensing under the authority of former RCW 62A.9-409.

NEW SECTION. Sec. 3. The sum of four hundred eighty-eight thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 2009, from the financial fraud and identity theft crimes investigation and prosecution account to the department of community, trade, and economic development for the purposes of this act.

NEW SECTION. Sec. 4. This act expires July 1, 2015."

On page 1, line 1 of the title, after "fraud;" strike the remainder of the title and insert "amending RCW 62A.9A-525; adding a new section to chapter 43.330 RCW; making an appropriation; and providing an expiration date."

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. 1273 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Roach and Kirby 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. 1273, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1273, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 96, Nays - 1, Absent - 0, Excused - 1.

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, Schindler, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 96.

Voting nay: Representative Santos - 1.

Excused: Representative Hailey - 1.

SECOND SUBSTITUTE HOUSE BILL NO. 1273, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 12, 2008

Mr. Speaker:

The Senate receded from its amendment to HOUSE BILL NO. 2263. Under suspension of the rules the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.95L.020 and 2006 c 223 s 2 are each amended to read as follows:

(1) After July 1, 1994, a person may not sell or distribute for sale a laundry detergent that contains 0.5 percent or more phosphorus by weight.

(2)(a) After July 1, 1994, and until the dates specified in ((b) of) this subsection, a person may not sell or distribute for sale a

dishwashing detergent that contains 8.7 percent or more ((phosphorous [phosphorus])) phosphorus by weight.

(b) Beginning July 1, 2008, in counties located east of the crest of the Cascade mountains with populations greater than four hundred thousand, as determined by office of financial management population estimates, a person may not sell or distribute for sale a dishwashing detergent that contains 0.5 percent or more phosphorus by weight((:

(i) Commencing)).

(c) From July 1, 2008, to June 30, 2010, in counties located west of the crest of the Cascade mountains with populations(, as determined by office of financial management population estimates:

(A))) greater than one hundred eighty thousand and less than two hundred twenty thousand((; and

(B) Greater than three hundred ninety thousand and less than six hundred fifty thousand;)), as determined by office of financial management population estimates, a person may not sell or distribute for sale a dishwashing detergent that contains 0.5 percent or more phosphorus by weight except in a single-use package containing no more than 2.0 grams of phosphorus.

((iii) Commencing)) (d) Beginning July 1, 2010, ((throughout)) a person may not sell or distribute for sale a dishwashing detergent that contains 0.5 percent or more phosphorus by weight in the state.

(e) For purposes of this section, "single-use package" means a tablet or other form of dishwashing detergent that is constituted and intended for use in a single washing.

(3) This section does not apply to the sale or distribution of detergents for commercial and industrial uses."

On page 1, line 1 of the title, after "detergent;" strike the remainder of the title and insert "and amending RCW 70.95L.020." and the same is herewith transmitted.

Thomas Hoemann, Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 2263 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Blake and Kretz 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. 2263, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2263, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

HOUSE BILL NO. 2263, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 12, 2008

Mr. Speaker:

The Senate receded from its amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2624. Under suspension of the rules, the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 68.50 RCW to read as follows:

(1) It is the duty of every person who knows of the existence and location of skeletal human remains to notify the coroner and local law enforcement in the most expeditious manner possible, unless such person has good reason to believe that such notice has already been given. Any person knowing of the existence of skeletal human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice to the coroner and local law enforcement, is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination of whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such human remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of such nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are:

(i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;

(ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and

(iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

(5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe.

NEW SECTION. Sec. 2. A new section is added to chapter 27.44 RCW to read as follows:

(1) Any person who discovers skeletal human remains must notify the coroner and local law enforcement in the most expeditious manner possible. Any person knowing of the existence of human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice thereof is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of such nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are:

(i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;

(ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and

(iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

(5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe.

NEW SECTION. Sec. 3. A new section is added to chapter 68.60 RCW to read as follows:

(1) Any person who discovers skeletal human remains shall notify the coroner and local law enforcement in the most expeditious manner possible. Any person knowing of the existence of skeletal human remains and not having good reason to believe that the coroner and local law enforcement has notice thereof and who fails to give notice thereof is guilty of a misdemeanor.

(2) Any person engaged in ground disturbing activity and who encounters or discovers skeletal human remains in or on the ground shall:

(a) Immediately cease any activity which may cause further disturbance;

(b) Make a reasonable effort to protect the area from further disturbance;

(c) Report the presence and location of the remains to the coroner and local law enforcement in the most expeditious manner possible; and

(d) Be held harmless from criminal and civil liability arising under the provisions of this section provided the following criteria are met:

(i) The finding of the remains was based on inadvertent discovery;

(ii) The requirements of the subsection are otherwise met; and

(iii) The person is otherwise in compliance with applicable law.

(3) The coroner must make a determination whether the skeletal human remains are forensic or nonforensic within five business days of receiving notification of a finding of such remains provided that there is sufficient evidence to make such a determination within that time period. The coroner will retain jurisdiction over forensic remains.

(a) Upon determination that the remains are nonforensic, the coroner must notify the department of archaeology and historic preservation within two business days. The department will have jurisdiction over such remains until provenance of the remains is established. A determination that remains are nonforensic does not create a presumption of removal or nonremoval.

(b) Upon receiving notice from a coroner of a finding of nonforensic skeletal human remains, the department must notify the appropriate local cemeteries, and all affected Indian tribes via certified mail to the head of the appropriate tribal government, and contact the appropriate tribal cultural resources staff within two business days of the finding. The determination of what are appropriate local cemeteries to be notified is at the discretion of the department. A notification to tribes of a finding of such nonforensic skeletal human remains does not create a presumption that the remains are Indian.

(c) The state physical anthropologist must make an initial determination of whether nonforensic skeletal human remains are Indian or non-Indian to the extent possible based on the remains within two business days of notification of a finding of such nonforensic remains. If the remains are determined to be Indian, the department must notify all affected Indian tribes via certified mail to

the head of the appropriate tribal government within two business days and contact the appropriate tribal cultural resources staff.

(d) The affected tribes have five business days to respond via telephone or writing to the department as to their interest in the remains.

(4) For the purposes of this section:

(a) "Affected tribes" are:

(i) Those federally recognized tribes with usual and accustomed areas in the jurisdiction where the remains were found;

(ii) Those federally recognized tribes that submit to the department maps that reflect the tribe's geographical area of cultural affiliation; and

(iii) Other tribes with historical and cultural affiliation in the jurisdiction where the remains were found.

(b) "Forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

(c) "Inadvertent discovery" has the same meaning as used in RCW 27.44.040.

(5) Nothing in this section constitutes, advocates, or otherwise grants, confers, or implies federal or state recognition of those tribes that are not federally recognized pursuant to 25 C.F.R. part 83, procedures for establishing that an American Indian group exists as an Indian tribe.

NEW SECTION. Sec. 4. A new section is added to chapter 43.334 RCW to read as follows:

(1) The director shall appoint a state physical anthropologist. At a minimum, the state physical anthropologist must have a doctorate in either archaeology or anthropology and have experience in forensic osteology or other relevant aspects of physical anthropology and must have at least one year of experience in laboratory reconstruction and analysis. A medical degree with archaeological experience in addition to the experience required may substitute for a doctorate in archaeology or anthropology.

(2) The state physical anthropologist has the primary responsibility of investigating, preserving, and, when necessary, removing and reintering discoveries of nonforensic skeletal human remains. The state physical anthropologist is available to any local governments or any federally recognized tribal government within the boundaries of Washington to assist in determining whether discovered skeletal human remains are forensic or nonforensic.

(3) The director shall hire staff as necessary to support the state physical anthropologist to meet the objectives of this section.

(4) For the purposes of this section, "forensic remains" are those that come under the jurisdiction of the coroner pursuant to RCW 68.50.010.

Sec. 5. RCW 27.53.030 and 2005 c 333 s 20 are each amended to read as follows:

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

(1) "Archaeology" means systematic, scientific study of man's past through material remains.

(2) "Archaeological object" means an object that comprises the physical evidence of an indigenous and subsequent culture including material remains of past human life including monuments, symbols, tools, facilities, and technological by-products.

(3) "Archaeological site" means a geographic locality in Washington, including but not limited to, submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects.

(4) "Department" means the department of archaeology and historic preservation, created in chapter 43.334 RCW.

(5) "Director" means the director of the department of archaeology and historic preservation, created in chapter 43.334 RCW.

(6) "Historic" means peoples and cultures who are known through written documents in their own or other languages. As applied to underwater archaeological resources, the term historic shall include only those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

(7) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(8) "Professional archaeologist" means a person ((who has met the educational, training, and experience requirements of the society of professional archaeologists.

(9) "Qualified archaeologist" means a person who has had formal training and/or experience in archaeology over a period of at least three years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists)) with qualifications meeting the federal secretary of the interior's standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the federal secretary of the interior's standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

((10)) (9) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has been certified in writing by two professional archaeologists.

((11)) (10) "Historic archaeological resources" means those properties which are listed in or eligible for listing in the Washington State Register of Historic Places (RCW 27.34.220) or the National Register of Historic Places as defined in the National Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

NEW SECTION. Sec. 6. A new section is added to chapter 27.34 RCW to read as follows:

The department of archaeology and historic preservation shall develop and maintain a centralized database and geographic information systems spatial layer of all known cemeteries and known sites of burials of human remains in Washington state. The information in the database is subject to public disclosure, except as provided in RCW 42.56.300; exempt information is available by confidentiality agreement to federal, state, and local agencies for purposes of environmental review, and to tribes in order to participate in environmental review, protect their ancestors, and perpetuate their cultures.

Information provided to state and local agencies under this section is subject to public disclosure, except as provided in RCW 42.56.300.

NEW SECTION. Sec. 7. A new section is added to chapter 43.334 RCW to read as follows:

The skeletal human remains assistance account is created in the custody of the state treasurer. All appropriations provided by the legislature for this purpose as well as any reimbursement for services provided pursuant to this act must be deposited in the account. Expenditures from the account may be used only for archaeological determinations and excavations of inadvertently discovered skeletal human remains, and removal and reinterment of such remains when necessary. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 8. The department of archaeology and historic preservation must communicate with the appropriate committees of the legislature by November 15, 2009, and biennially thereafter, regarding the numbers of inadvertent discoveries of skeletal human remains and other associated activities pursuant to this act.

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

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 concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2624 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives McCoy and Chandler 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. 2624, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 2624, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 74, Nays - 23, Absent - 0, Excused - 1.

Voting yea: Representatives Ahern, Appleton, Bailey, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Conway, Darneille, Dickerson, Dunn, 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, McCune, McDonald, McIntire, Miloscia, Moeller, Morrell, Morris, Nelson, O'Brien, Ormsby, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rolfes, Santos, Schindler, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Smith, Sommers, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Williams, Wood and Mr. Speaker - 74.

Voting nay: Representatives Alexander, Anderson, Armstrong, Chandler, Condotta, Crouse, DeBolt, Ericksen, Haler, Hankins, Herrera, Hinkle, Kretz, Kristiansen, Newhouse, Orcutt, Pearson, Rodne, Ross, Schmick, Sump, Walsh and Warnick - 23.

Excused: Representative Hailey - 1.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2624, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on Engrossed Second Substitute House Bill No. 2624.

SHIRLEY HANKINS, 8th District

MESSAGE FROM THE SENATE

March 12, 2008

Mr. Speaker:

The Senate recessed from its amendment to HOUSE BILL NO. 2719. Under suspension of the rules, the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the legislature's intent to ensure that offenders receive accurate sentences that are based on their actual, complete criminal history. Accurate sentences further the sentencing reform act's goals of:

(1) Ensuring that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history;

(2) Ensuring punishment that is just; and

(3) Ensuring that sentences are commensurate with the punishment imposed on others for committing similar offenses.

Given the decisions in *In re Cadwallader*, 155 Wn.2d 867 (2005); *State v. Lopez*, 147 Wn.2d 515 (2002); *State v. Ford*, 137 Wn.2d 472 (1999); and *State v. McCorkle*, 137 Wn.2d 490 (1999), the legislature finds it is necessary to amend the provisions in RCW 9.94A.500, 9.94A.525, and 9.94A.530 in order to ensure that sentences imposed accurately reflect the offender's actual, complete

criminal history, whether imposed at sentencing or upon resentencing. These amendments are consistent with the United States supreme court holding in *Monge v. California*, 524 U.S. 721 (1998), that double jeopardy is not implicated at resentencing following an appeal or collateral attack.

Sec. 2. RCW 9.94A.500 and 2006 c 339 s 303 are each amended to read as follows:

(1) Before imposing a sentence upon a defendant, the court shall conduct a sentencing hearing. The sentencing hearing shall be held within forty court days following conviction. Upon the motion of either party for good cause shown, or on its own motion, the court may extend the time period for conducting the sentencing hearing.

Except in cases where the defendant shall be sentenced to a term of total confinement for life without the possibility of release or, when authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree, sentenced to death, the court may order the department to complete a risk assessment report. If available before sentencing, the report shall be provided to the court.

Unless specifically waived by the court, the court shall order the department to complete a chemical dependency screening report before imposing a sentence upon a defendant who has been convicted of a violation of the uniform controlled substances act under chapter 69.50 RCW, a criminal solicitation to commit such a violation under chapter 9A.28 RCW, or any felony where the court finds that the offender has a chemical dependency that has contributed to his or her offense. In addition, the court shall, at the time of plea or conviction, order the department to complete a presentence report before imposing a sentence upon a defendant who has been convicted of a felony sexual offense. The department of corrections shall give priority to presentence investigations for sexual offenders. If the court determines that the defendant may be a mentally ill person as defined in RCW 71.24.025, although the defendant has not established that at the time of the crime he or she lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime, the court shall order the department to complete a presentence report before imposing a sentence.

The court shall consider the risk assessment report and presentence reports, if any, including any victim impact statement and criminal history, and allow arguments from the prosecutor, the defense counsel, the offender, the victim, the survivor of the victim, or a representative of the victim or survivor, and an investigative law enforcement officer as to the sentence to be imposed.

A criminal history summary relating to the defendant from the prosecuting authority or from a state, federal, or foreign governmental agency shall be prima facie evidence of the existence and validity of the convictions listed therein. If the court is satisfied by a preponderance of the evidence that the defendant has a criminal history, the court shall specify the convictions it has found to exist. All of this information shall be part of the record. Copies of all risk assessment reports and presentence reports presented to the sentencing court and all written findings of facts and conclusions of law as to sentencing entered by the court shall be sent to the department by the clerk of the court at the conclusion of the sentencing and shall accompany the offender if the offender is committed to the custody of the department. Court clerks shall provide, without charge, certified copies of documents relating to criminal convictions requested by prosecuting attorneys.

(2) To prevent wrongful disclosure of information related to mental health services, as defined in RCW 71.05.445 and 71.34.345, a court may take only those steps necessary during a sentencing hearing or any hearing in which the department presents information

related to mental health services to the court. The steps may be taken on motion of the defendant, the prosecuting attorney, or on the court's own motion. The court may seal the portion of the record relating to information relating to mental health services, exclude the public from the hearing during presentation or discussion of information relating to mental health services, or grant other relief to achieve the result intended by this subsection, but nothing in this subsection shall be construed to prevent the subsequent release of information related to mental health services as authorized by RCW 71.05.445, 71.34.345, or 72.09.585. Any person who otherwise is permitted to attend any hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded from the hearing solely because the department intends to disclose or discloses information related to mental health services.

Sec. 3. RCW 9.94A.525 and 2007 c 199 s 8 and 2007 c 116 s 1 are each reenacted and amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction.

(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions of felony driving while under the influence of intoxicating liquor or any drug, felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, and serious traffic offenses shall be included in the offender score if: (i) The prior convictions were committed within five years since the last date of release from confinement (including full-time residential treatment) or entry of judgment and sentence; or (ii) the prior convictions would be considered "prior offenses within ten years" as defined in RCW 46.61.5055.

(f) This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) If the present conviction is for a nonviolent offense and not covered by subsection (11), (12), or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes

in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Burglary 1, count prior convictions as in subsection (8) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(13) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction and two points for each juvenile manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (7) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130((10)) (11), count priors as in subsections (7) through (11) and (13) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction, excluding prior convictions for failure to register

as a sex offender under RCW 9A.44.130((10)) (11), which shall count as one point.

(19) If the present conviction is for an offense committed while the offender was under community ((placement)) custody, add one point. For purposes of this subsection, community custody includes community placement or postrelease supervision, as defined in chapter 9.-- RCW (the new chapter created in section 56 of this act).

(20) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in subsections (7) through (18) of this section; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

(21) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. ((Accordingly,)) Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence.

Sec. 4. RCW 9.94A.530 and 2005 c 68 s 2 are each amended to read as follows:

(1) The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the standard sentence range (see RCW 9.94A.510, (Table 1) and RCW 9.94A.517, (Table 3)). The additional time for deadly weapon findings or for other adjustments as specified in RCW 9.94A.533 shall be added to the entire standard sentence range. The court may impose any sentence within the range that it deems appropriate. All standard sentence ranges are expressed in terms of total confinement.

(2) In determining any sentence other than a sentence above the standard range, the trial court may rely on no more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing, or proven pursuant to RCW 9.94A.537. Acknowledgment includes not objecting to information stated in the presentence reports and not objecting to criminal history presented at the time of sentencing. Where the defendant disputes material facts, the court must either not consider the fact or grant an evidentiary hearing on the point. The facts shall be deemed proved at the hearing by a preponderance of the evidence, except as otherwise specified in RCW 9.94A.537. On remand for resentencing following appeal or collateral attack, the parties shall have the opportunity to present and the court to consider all relevant evidence regarding criminal history, including criminal history not previously presented.

(3) In determining any sentence above the standard sentence range, the court shall follow the procedures set forth in RCW 9.94A.537. Facts that establish the elements of a more serious crime or additional crimes may not be used to go outside the standard sentence range except upon stipulation or when specifically provided for in RCW 9.94A.535((2)) (3) (d), (e), (g), and (h).

NEW SECTION. Sec. 5. Sections 2 and 3 of this act apply to all sentencings and resentencings commenced before, on, or after the effective date of sections 1 through 4 of this act.

NEW SECTION. Sec. 6. The existing sentencing reform act contains numerous provisions for supervision of different types of offenders. This duplication has caused great confusion for judges, lawyers, offenders, and the department of corrections, and often results in inaccurate sentences. The clarifications in this act are intended to support continued discussions by the sentencing guidelines commission with the courts and the criminal justice community to identify and propose policy changes that will further simplify and improve the sentencing reform act relating to the supervision of offenders. The sentencing guidelines commission shall submit policy change proposals to the legislature on or before December 1, 2008.

Sections 7 through 58 of this act are intended to simplify the supervision provisions of the sentencing reform act and increase the uniformity of its application. These sections are not intended to either increase or decrease the authority of sentencing courts or the department relating to supervision, except for those provisions instructing the court to apply the provisions of the current community custody law to offenders sentenced after July 1, 2009, but who committed their crime prior to the effective date of this section to the extent that such application is constitutionally permissible.

This will effect a change for offenders who committed their crimes prior to the offender accountability act, chapter 196, Laws of 1999. These offenders will be ordered to a term of community custody rather than community placement or community supervision. To the extent constitutionally permissible, the terms of the offender's supervision will be as provided in current law. With the exception of this change, the legislature does not intend to make, and no provision of sections 7 through 58 of this act may be construed as making, a substantive change to the supervision provisions of the sentencing reform act.

It is the intent of the legislature to reaffirm that section 3, chapter 379, Laws of 2003, expires July 1, 2010.

NEW SECTION. Sec. 7. A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender is sentenced to the custody of the department for one of the following crimes, the court shall impose a term of community custody for the community custody range established under RCW 9.94A.850 or up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer:

- (a) A sex offense not sentenced under RCW 9.94A.712;
- (b) A violent offense;
- (c) A crime against persons under RCW 9.94A.411(2);
- (d) A felony offender under chapter 69.50 or 69.52 RCW.

(2) If an offender is sentenced to a term of confinement of one year or less for a violation of RCW 9A.44.130(11)(a), the court shall impose a term of community custody for the community custody range established under RCW 9.94A.850 or up to the period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer.

(3) If an offender is sentenced under the drug offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.660.

(4) If an offender is sentenced under the special sexual offender sentencing alternative, the court shall impose community custody as provided in RCW 9.94A.670.

(5) If an offender is sentenced to a work ethic camp, the court shall impose community custody as provided in RCW 9.94A.690.

(6) If a sex offender is sentenced as a nonpersistent offender pursuant to RCW 9.94A.712, the court shall impose community custody as provided in that section.

NEW SECTION. Sec. 8. A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender is sentenced to a term of confinement for one year or less for one of the following offenses, the court may impose up to one year of community custody:

(a) A sex offense, other than failure to register under RCW 9A.44.130(1);

(b) A violent offense;

(c) A crime against a person under RCW 9.94A.411; or

(d) A felony violation of chapter 69.50 or 69.52 RCW, or an attempt, conspiracy, or solicitation to commit such a crime.

(2) If an offender is sentenced to a first-time offender waiver, the court may impose community custody as provided in RCW 9.94A.650.

NEW SECTION. Sec. 9. A new section is added to chapter 9.94A RCW to read as follows:

When a court sentences a person to a term of community custody, the court shall impose conditions of community custody as provided in this section.

(1) Mandatory conditions. As part of any term of community custody, the court shall:

(a) Require the offender to inform the department of court-ordered treatment upon request by the department;

(b) Require the offender to comply with any conditions imposed by the department under section 10 of this act;

(c) If the offender was sentenced under RCW 9.94A.712 for an offense listed in RCW 9.94A.712(1)(a), and the victim of the offense was under eighteen years of age at the time of the offense, prohibit the offender from residing in a community protection zone.

(2) Waivable conditions. Unless waived by the court, as part of any term of community custody, the court shall order an offender to:

(a) Report to and be available for contact with the assigned community corrections officer as directed;

(b) Work at department-approved education, employment, or community restitution, or any combination thereof;

(c) Refrain from possessing or consuming controlled substances except pursuant to lawfully issued prescriptions;

(d) Pay supervision fees as determined by the department; and

(e) Obtain prior approval of the department for the offender's residence location and living arrangements.

(3) Discretionary conditions. As part of any term of community custody, the court may order an offender to:

(a) Remain within, or outside of, a specified geographical boundary;

(b) Refrain from direct or indirect contact with the victim of the crime or a specified class of individuals;

(c) Participate in crime-related treatment or counseling services;

(d) Participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community;

(e) Refrain from consuming alcohol; or

(f) Comply with any crime-related prohibitions.

(4) Special conditions.

(a) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may order the offender to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

(b)(i) In sentencing an offender convicted of an alcohol or drug related traffic offense, the court shall require the offender to complete a diagnostic evaluation by an alcohol or drug dependency agency defined by the department of social and health services or a qualified probation department, defined under RCW 46.61.516, that has been approved by the department of social and health services. If the offense was pursuant to chapter 46.61 RCW, the report shall be forwarded to the department of licensing. If the offender is found to have an alcohol or drug problem that requires treatment, the offender shall complete treatment in a program approved by the department of social and health services under chapter 70.96A RCW. If the offender is found not to have an alcohol or drug problem that requires treatment, the offender shall complete a course in an information school approved by the department of social and health services under chapter 70.96A RCW. The offender shall pay all costs for any evaluation, education, or treatment required by this section, unless the offender is eligible for an existing program offered or approved by the department of social and health services.

(ii) For purposes of this section, "alcohol or drug related traffic offense" means the following: Driving while under the influence as defined by RCW 46.61.502, actual physical control while under the influence as defined by RCW 46.61.504, vehicular homicide as defined by RCW 46.61.520(1)(a), vehicular assault as defined by RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

(iii) This subsection (4)(b) does not require the department of social and health services to add new treatment or assessment facilities nor affect its use of existing programs and facilities authorized by law.

NEW SECTION. Sec. 10. A new section is added to chapter 9.94A RCW to read as follows:

(1) Every person who is sentenced to a period of community custody shall report to and be placed under the supervision of the department, subject to RCW 9.94A.501.

(2)(a) The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of community custody based upon the risk to community safety.

(b) Within the funds available for community custody, the department shall determine conditions and duration of community custody on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection (2)(b).

(3) If the offender is supervised by the department, the department shall at a minimum instruct the offender to:

(a) Report as directed to a community corrections officer;

(b) Remain within prescribed geographical boundaries;

(c) Notify the community corrections officer of any change in the offender's address or employment;

(d) Pay the supervision fee assessment; and

(e) Disclose the fact of supervision to any mental health or chemical dependency treatment provider, as required by RCW 9.94A.722.

(4) The department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws.

(5) If the offender was sentenced pursuant to a conviction for a sex offense, the department may impose electronic monitoring. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning system technology.

(6) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court imposed conditions.

(7)(a) The department shall notify the offender in writing of any additional conditions or modifications.

(b) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to the crime of conviction, the offender's risk of reoffending, or the safety of the community.

(8) The department may require offenders to pay for special services rendered including electronic monitoring, day reporting, and telephone reporting, dependent on the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(9)(a) When a sex offender has been sentenced pursuant to RCW 9.94A.712, the board shall exercise the authority prescribed in RCW 9.95.420 through 9.95.435.

(b) The department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions based upon the risk to community safety. The board must consider and may impose department-recommended conditions.

(c) If the department finds that an emergency exists requiring the immediate imposition of additional conditions in order to prevent the offender from committing a crime, the department may impose such conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately after notice to the offender by personal service, but shall not remain in effect longer than seven working days unless approved by the board.

(10) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasi-judicial function.

NEW SECTION. Sec. 11. A new section is added to chapter 9.94A RCW to read as follows:

No offender sentenced to a term of community custody under the supervision of the department may own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the violation process and sanctions under sections 15 and 21 of this act and RCW 9.94A.737.

"Constructive possession" as used in this section means the power and intent to control the firearm or ammunition. "Firearm" as used in this section has the same definition as in RCW 9.41.010.

NEW SECTION. Sec. 12. A new section is added to chapter 9.94A RCW to read as follows:

(1) Community custody shall begin: (a) Upon completion of the term of confinement; (b) at such time as the offender is transferred to community custody in lieu of earned release in accordance with RCW 9.94A.728 (1) or (2); or (c) at the time of sentencing if no term of confinement is ordered.

(2) When an offender is sentenced to community custody, the offender is subject to the conditions of community custody as of the date of sentencing, unless otherwise ordered by the court.

(3) When an offender is sentenced to a community custody range pursuant to section 7 (1) or (2) of this act, the department shall discharge the offender from community custody on a date determined by the department, which the department may modify, based on risk and performance of the offender, within the range or at the end of the period of earned release, whichever is later.

NEW SECTION. Sec. 13. A new section is added to chapter 9.94A RCW to read as follows:

(1) When an offender is under community custody, the community corrections officer may obtain information from the offender's mental health treatment provider on the offender's status with respect to evaluation, application for services, registration for services, and compliance with the supervision plan, without the offender's consent, as described under RCW 71.05.630.

(2) An offender under community custody who is civilly detained under chapter 71.05 RCW, and subsequently discharged or conditionally released to the community, shall be under the supervision of the department for the duration of his or her period of community custody. During any period of inpatient mental health treatment that falls within the period of community custody, the inpatient treatment provider and the supervising community corrections officer shall notify each other about the offender's discharge, release, and legal status, and shall share other relevant information.

NEW SECTION. Sec. 14. A new section is added to chapter 9.94A RCW to read as follows:

(1) At any time prior to the completion or termination of a sex offender's term of community custody, if the court finds that public safety would be enhanced, the court may impose and enforce an order extending any or all of the conditions of community custody for a period up to the maximum allowable sentence for the crime as it is classified in chapter 9A.20 RCW, regardless of the expiration of the offender's term of community custody.

(2) If a violation of a condition extended under this section occurs after the expiration of the offender's term of community custody, it shall be deemed a violation of the sentence for the purposes of RCW 9.94A.631 and may be punishable as contempt of court as provided for in RCW 7.21.040.

(3) If the court extends a condition beyond the expiration of the term of community custody, the department is not responsible for supervision of the offender's compliance with the condition.

NEW SECTION. Sec. 15. A new section is added to chapter 9.94A RCW to read as follows:

(1)(a) An offender who violates any condition or requirement of a sentence may be sanctioned with up to sixty days' confinement for each violation.

(b) In lieu of confinement, an offender may be sanctioned with work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew,

educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(2) If an offender was under community custody pursuant to one of the following statutes, the offender may be sanctioned as follows:

(a) If the offender was transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.728(2), the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

(b) If the offender was sentenced under the drug offender sentencing alternative set out in RCW 9.94A.660, the offender may be sanctioned in accordance with that section.

(c) If the offender was sentenced under the special sexual offender sentencing alternative set out in RCW 9.94A.670, the suspended sentence may be revoked and the offender committed to serve the original sentence of confinement.

(d) If the offender was sentenced to a work ethic camp pursuant to RCW 9.94A.690, the offender may be reclassified to serve the unexpired term of his or her sentence in total confinement.

(e) If a sex offender was sentenced pursuant to RCW 9.94A.712, the offender may be transferred to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation.

NEW SECTION. Sec. 16. A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender has not completed his or her maximum term of total confinement and is subject to a third violation hearing pursuant to RCW 9.94A.737 for any violation of community custody and is found to have committed the violation, the department shall return the offender to total confinement in a state correctional facility to serve up to the remaining portion of his or her sentence, unless it is determined that returning the offender to a state correctional facility would substantially interfere with the offender's ability to maintain necessary community supports or to participate in necessary treatment or programming and would substantially increase the offender's likelihood of reoffending.

(2) The department may work with the Washington association of sheriffs and police chiefs to establish and operate an electronic monitoring program for low-risk offenders who violate the terms of their community custody.

(3) Local governments, their subdivisions and employees, the department and its employees, and the Washington association of sheriffs and police chiefs and its employees are immune from civil liability for damages arising from incidents involving low-risk offenders who are placed on electronic monitoring unless it is shown that an employee acted with gross negligence or bad faith.

NEW SECTION. Sec. 17. A new section is added to chapter 9.94A RCW to read as follows:

(1) If a sanction of confinement is imposed by the court, the following applies:

(a) If the sanction was imposed pursuant to section 15(1) of this act, the sanction shall be served in a county facility.

(b) If the sanction was imposed pursuant to section 15(2) of this act, the sanction shall be served in a state facility.

(2) If a sanction of confinement is imposed by the department, and if the offender is an inmate as defined by RCW 72.09.015, no more than eight days of the sanction, including any credit for time

served, may be served in a county facility. The balance of the sanction shall be served in a state facility. In computing the eight-day period, weekends and holidays shall be excluded. The department may negotiate with local correctional authorities for an additional period of detention.

(3) If a sanction of confinement is imposed by the board, it shall be served in a state facility.

(4) Sanctions imposed pursuant to RCW 9.94A.670(3) shall be served in a county facility.

(5) As used in this section, "county facility" means a facility operated, licensed, or utilized under contract by the county, and "state facility" means a facility operated, licensed, or utilized under contract by the state.

NEW SECTION. Sec. 18. A new section is added to chapter 9.94A RCW to read as follows:

The procedure for imposing sanctions for violations of sentence conditions or requirements is as follows:

(1) If the offender was sentenced under the drug offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.660.

(2) If the offender was sentenced under the special sexual offender sentencing alternative, any sanctions shall be imposed by the department or the court pursuant to RCW 9.94A.670.

(3) If a sex offender was sentenced pursuant to RCW 9.94A.712, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

(4) In any other case, if the offender is being supervised by the department, any sanctions shall be imposed by the department pursuant to RCW 9.94A.737.

(5) If the offender is not being supervised by the department, any sanctions shall be imposed by the court pursuant to section 19 of this act.

NEW SECTION. Sec. 19. A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender violates any condition or requirement of a sentence, and the offender is not being supervised by the department, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.

(2) If an offender fails to comply with any of the conditions or requirements of a sentence the following provisions apply:

(a) The court, upon the motion of the state, or upon its own motion, shall require the offender to show cause why the offender should not be punished for the noncompliance. The court may issue a summons or a warrant of arrest for the offender's appearance;

(b) The state has the burden of showing noncompliance by a preponderance of the evidence;

(c) If the court finds that a violation has been proved, it may impose the sanctions specified in section 15(1) of this act. Alternatively, the court may:

(i) Convert a term of partial confinement to total confinement;

(ii) Convert community restitution obligation to total or partial confinement; or

(iii) Convert monetary obligations, except restitution and the crime victim penalty assessment, to community restitution hours at the rate of the state minimum wage as established in RCW 49.46.020 for each hour of community restitution;

(d) If the court finds that the violation was not willful, the court may modify its previous order regarding payment of legal financial obligations and regarding community restitution obligations; and

(e) If the violation involves a failure to undergo or comply with a mental health status evaluation and/or outpatient mental health treatment, the court shall seek a recommendation from the treatment provider or proposed treatment provider. Enforcement of orders concerning outpatient mental health treatment must reflect the availability of treatment and must pursue the least restrictive means of promoting participation in treatment. If the offender's failure to receive care essential for health and safety presents a risk of serious physical harm or probable harmful consequences, the civil detention and commitment procedures of chapter 71.05 RCW shall be considered in preference to incarceration in a local or state correctional facility.

(3) Any time served in confinement awaiting a hearing on noncompliance shall be credited against any confinement ordered by the court.

(4) Nothing in this section prohibits the filing of escape charges if appropriate.

Sec. 20. RCW 9.94A.737 and 2007 c 483 s 305 are each amended to read as follows:

(1) (If an offender violates any condition or requirement of community custody, the department may transfer the offender to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation and subject to the limitations of subsection (3) of this section.

(2) If an offender has not completed his or her maximum term of total confinement and is subject to a third violation hearing for any violation of community custody and is found to have committed the violation, the department shall return the offender to total confinement in a state correctional facility to serve up to the remaining portion of his or her sentence, unless it is determined that returning the offender to a state correctional facility would substantially interfere with the offender's ability to maintain necessary community supports or to participate in necessary treatment or programming and would substantially increase the offender's likelihood of reoffending.

(3)(a) For a sex offender sentenced to a term of community custody under RCW 9.94A.670 who violates any condition of community custody, the department may impose a sanction of up to sixty days' confinement in a local correctional facility for each violation. If the department imposes a sanction, the department shall submit within seventy-two hours a report to the court and the prosecuting attorney outlining the violation or violations and the sanctions imposed.

(b) For a sex offender sentenced to a term of community custody under RCW 9.94A.710 who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in a local correctional facility for each violation.

(c) For an offender sentenced to a term of community custody under RCW 9.94A.505(2)(b), 9.94A.650, or 9.94A.715, or under RCW 9.94A.545, for a crime committed on or after July 1, 2000, who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in total confinement for each violation. The department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew,

educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(d) For an offender sentenced to a term of community placement under RCW 9.94A.705 who violates any condition of community placement after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in total confinement for each violation. The department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(4) If an offender has been arrested for a new felony offense while under community supervision, community custody, or community placement, the department shall hold the offender in total confinement until a hearing before the department as provided in this section or until the offender has been formally charged for the new felony offense, whichever is earlier. Nothing in this subsection shall be construed as to permit the department to hold an offender past his or her maximum term of total confinement if the offender has not completed the maximum term of total confinement or to permit the department to hold an offender past the offender's term of community supervision, community custody, or community placement.

(5) The department shall be financially responsible for any portion of the sanctions authorized by this section that are served in a local correctional facility as the result of action by the department.

(6)) If an offender is accused of violating any condition or requirement of community custody, he or she is entitled to a hearing before the department prior to the imposition of sanctions. The hearing shall be considered as offender disciplinary proceedings and shall not be subject to chapter 34.05 RCW. The department shall develop hearing procedures and a structure of graduated sanctions.

((7)) (2) The hearing procedures required under subsection (((6))) (1) of this section shall be developed by rule and include the following:

(a) Hearing officers shall report through a chain of command separate from that of community corrections officers;

(b) The department shall provide the offender with written notice of the violation, the evidence relied upon, and the reasons the particular sanction was imposed. The notice shall include a statement of the rights specified in this subsection, and the offender's right to file a personal restraint petition under court rules after the final decision of the department;

(c) The hearing shall be held unless waived by the offender, and shall be electronically recorded. For offenders not in total confinement, the hearing shall be held within fifteen working days, but not less than twenty-four hours, after notice of the violation. For offenders in total confinement, the hearing shall be held within five working days, but not less than twenty-four hours, after notice of the violation;

(d) The offender shall have the right to: (i) Be present at the hearing; (ii) have the assistance of a person qualified to assist the offender in the hearing, appointed by the hearing officer if the offender has a language or communications barrier; (iii) testify or remain silent; (iv) call witnesses and present documentary evidence; and (v) question witnesses who appear and testify; and

(e) The sanction shall take effect if affirmed by the hearing officer. Within seven days after the hearing officer's decision, the offender may appeal the decision to a panel of three reviewing officers designated by the secretary or by the secretary's designee.

The sanction shall be reversed or modified if a majority of the panel finds that the sanction was not reasonably related to any of the following: (i) The crime of conviction; (ii) the violation committed; (iii) the offender's risk of reoffending; or (iv) the safety of the community.

((8)) (3) For purposes of this section, no finding of a violation of conditions may be based on unconfirmed or unconfirmable allegations.

((9) The department shall work with the Washington association of sheriffs and police chiefs to establish and operate an electronic monitoring program for low-risk offenders who violate the terms of their community custody. Between January 1, 2006, and December 31, 2006, the department shall endeavor to place at least one hundred low-risk community custody violators on the electronic monitoring program per day if there are at least that many low-risk offenders who qualify for the electronic monitoring program.

(10) Local governments, their subdivisions and employees, the department and its employees, and the Washington association of sheriffs and police chiefs and its employees shall be immune from civil liability for damages arising from incidents involving low-risk offenders who are placed on electronic monitoring unless it is shown that an employee acted with gross negligence or bad faith.)

NEW SECTION. Sec. 21. (1) The secretary may issue warrants for the arrest of any offender who violates a condition of community custody. The arrest warrants shall authorize any law enforcement or peace officer or community corrections officer of this state or any other state where such offender may be located, to arrest the offender and place him or her in total confinement pending disposition of the alleged violation.

(2) A community corrections officer, if he or she has reasonable cause to believe an offender has violated a condition of community custody, may suspend the person's community custody status and arrest or cause the arrest and detention in total confinement of the offender, pending the determination of the secretary as to whether the violation has occurred. The community corrections officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending community custody status.

(3) If an offender has been arrested for a new felony offense while under community custody the department shall hold the offender in total confinement until a hearing before the department as provided in this section or until the offender has been formally charged for the new felony offense, whichever is earlier. Nothing in this subsection shall be construed as to permit the department to hold an offender past his or her maximum term of total confinement if the offender has not completed the maximum term of total confinement or to permit the department to hold an offender past the offender's term of community custody.

(4) A violation of a condition of community custody shall be deemed a violation of the sentence for purposes of RCW 9.94A.631. The authority granted to community corrections officers under this section shall be in addition to that set forth in RCW 9.94A.631.

Sec. 22. RCW 9.94A.740 and 1999 c 196 s 9 are each amended to read as follows:

(1) ((The secretary may issue warrants for the arrest of any offender who violates a condition of community placement or community custody. The arrest warrants shall authorize any law enforcement or peace officer or community corrections officer of this state or any other state where such offender may be located, to arrest the offender and place him or her in total confinement pending disposition of the alleged violation.)) When an offender is arrested

pursuant to section 21 of this act, the department shall compensate the local jurisdiction at the office of financial management's adjudicated rate, in accordance with RCW 70.48.440. ((A community corrections officer, if he or she has reasonable cause to believe an offender in community placement or community custody has violated a condition of community placement or community custody, may suspend the person's community placement or community custody status and arrest or cause the arrest and detention in total confinement of the offender, pending the determination of the secretary as to whether the violation has occurred. The community corrections officer shall report to the secretary all facts and circumstances and the reasons for the action of suspending community placement or community custody status. A violation of a condition of community placement or community custody shall be deemed a violation of the sentence for purposes of RCW 9.94A.631. The authority granted to community corrections officers under this section shall be in addition to that set forth in RCW 9.94A.631.))

(2) Inmates, as defined in RCW 72.09.015, who have been transferred to community custody and who are detained in a local correctional facility are the financial responsibility of the department of corrections, except as provided in subsection (3) of this section. ((The community custody inmate shall be removed from the local correctional facility, except as provided in subsection (3) of this section, not later than eight days, excluding weekends and holidays, following admittance to the local correctional facility and notification that the inmate is available for movement to a state correctional institution.))

(3) ((The department may negotiate with local correctional authorities for an additional period of detention; however, sex offenders sanctioned for community custody violations under RCW 9.94A.737(2) to a term of confinement shall remain in the local correctional facility for the complete term of the sanction.)) For confinement sanctions imposed by the department under RCW ((9.94A.737(2)(a))) 9.94A.670, the local correctional facility shall be financially responsible. ((For confinement sanctions imposed under RCW 9.94A.737(2)(b), the department of corrections shall be financially responsible for that portion of the sanction served during the time in which the sex offender is on community custody in lieu of earned release, and the local correctional facility shall be financially responsible for that portion of the sanction served by the sex offender after the time in which the sex offender is on community custody in lieu of earned release.))

(4) The department, in consultation with the Washington association of sheriffs and police chiefs and those counties in which the sheriff does not operate a correctional facility, shall establish a methodology for determining the department's local correctional facilities bed utilization rate, for each county in calendar year 1998, for offenders being held for violations of conditions of community custody((, community placement, or community supervision)). ((For confinement sanctions imposed under RCW 9.94A.737(2)(c) or (d)))

(5) Except as provided in subsections (1) and (2) of this section, the local correctional facility shall continue to be financially responsible to the extent of the calendar year 1998 bed utilization rate for confinement sanctions imposed by the department pursuant to RCW 9.94A.737. If the department's use of bed space in local correctional facilities of any county for such confinement sanctions ((imposed on offenders sentenced to a term of community custody under RCW 9.94A.737(2) (c) or (d))) exceeds the 1998 bed utilization rate for the county, the department shall compensate the county for the excess use at the per diem rate equal to the lowest rate charged by the county under its contract with a municipal government during the year in which the use occurs.

Sec. 23. RCW 9.94A.030 and 2006 c 139 s 5, 2006 c 124 s 1, 2006 c 122 s 7, 2006 c 73 s 5, and 2005 c 436 s 1 are each reenacted and amended to read as follows:

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

(1) "Board" means the indeterminate sentence review board created under chapter 9.95 RCW.

(2) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department, means that the department, either directly or through a collection agreement authorized by RCW 9.94A.760, is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(3) "Commission" means the sentencing guidelines commission.

(4) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(5) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time or imposed ((pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545,)) as part of a sentence and served in the community subject to controls placed on the offender's movement and activities by the department. ((For offenders placed on community custody for crimes committed on or after July 1, 2000, the department shall assess the offender's risk of reoffense and may establish and modify conditions of community custody, in addition to those imposed by the court, based upon the risk to community safety.))

(6) "Community custody range" means the minimum and maximum period of community custody included as part of a sentence under RCW 9.94A.715, as established by the commission or the legislature under RCW 9.94A.850 ((for crimes committed on or after July 1, 2000)).

(7) ("Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(8)) "Community protection zone" means the area within eight hundred eighty feet of the facilities and grounds of a public or private school.

((9)) (8) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender.

((10) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(11))) (9) "Confinement" means total or partial confinement.

((12))) (10) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

((13))) (11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. However, affirmative acts necessary to monitor compliance with the order of a court may be required by the department.

((14))) (12) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere.

(a) The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon.

(c) The determination of a defendant's criminal history is distinct from the determination of an offender score. A prior conviction that was not included in an offender score calculated pursuant to a former version of the sentencing reform act remains part of the defendant's criminal history.

((15))) (13) "Day fine" means a fine imposed by the sentencing court that equals the difference between the offender's net daily income and the reasonable obligations that the offender has for the support of the offender and any dependents.

((16))) (14) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with sentence conditions, and in which the offender is required to report daily to a specific location designated by the department or the sentencing court.

((17))) (15) "Department" means the department of corrections.

((18))) (16) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community ((supervision)) custody, the number of actual hours or days of community restitution work, or dollars or terms of a legal financial obligation. The fact that an offender through earned release can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

((19))) (17) "Disposable earnings" means that part of the earnings of an offender remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

((20))) (18) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than a violent offense or a sex offense and who are eligible for the option under RCW 9.94A.660.

((21)) (19) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.4013) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

((22)) (20) "Earned release" means earned release from confinement as provided in RCW 9.94A.728.

((23)) (21) "Escape" means:

(a) Sexually violent predator escape (RCW 9A.76.115), escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

((24)) (22) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-run injury-accident (RCW 46.52.020(4)), felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

((25)) (23) "Fine" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specific period of time.

((26)) (24) "First-time offender" means any person who has no prior convictions for a felony and is eligible for the first-time offender waiver under RCW 9.94A.650.

((27)) (25) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance.

((28)) (26) "Legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

((29)) (27) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.602;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

(v)(i) A prior conviction for indecent liberties under RCW 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of fourteen; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997.

((30)) (28) "Nonviolent offense" means an offense which is not a violent offense.

((31)) (29) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

((32)) (30) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention.

((33)) (31) "Persistent offender" is an offender who:

(a)(i) Has been convicted in this state of any felony considered a most serious offense; and

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted; or

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (((33))) (31)(b)(i); and

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in (b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(((34))) (34) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(((35))) (32) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; or (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority.

(((36))) (33) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(((37))) (34) "Public school" has the same meaning as in RCW 28A.150.010.

(((38))) (35) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

(((39))) (36) "Risk assessment" means the application of an objective instrument supported by research and adopted by the

department for the purpose of assessing an offender's risk of reoffense, taking into consideration the nature of the harm done by the offender, place and circumstances of the offender related to risk, the offender's relationship to any victim, and any information provided to the department by victims. The results of a risk assessment shall not be based on unconfirmed or unconfirmable allegations.

(((40))) (37) "Serious traffic offense" means:

(a) Nonfelony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), nonfelony actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(((41))) (38) "Serious violent offense" is a subcategory of violent offense and means:

(a)(i) Murder in the first degree;

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

(viii) Assault of a child in the first degree; or

(ix) An attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(((42))) (39) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.130(((11))) (12);

(ii) A violation of RCW 9A.64.020;

(iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080; or

(iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;

(c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or

(d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(((43))) (40) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(((44))) (41) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(((45))) (42) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

(((46))) (43) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

(((47))) (44) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized

under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

((48)) (45) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

((49)) (46) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

((50)) (47) "Violent offense" means:

(a) Any of the following felonies:

(i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;

(ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

(ix) Assault of a child in the second degree;

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and

(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

((51)) (48) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

((52)) (49) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

((53)) (50) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

Sec. 24. RCW 9.94A.501 and 2005 c 362 s 1 are each amended to read as follows:

(1) When the department performs a risk assessment pursuant to RCW 9.94A.500, or to determine a person's conditions of supervision, the risk assessment shall classify the offender or a

probationer sentenced in superior court into one of at least four risk categories.

(2) The department shall supervise every offender sentenced to a term of community custody((, community placement, or community supervision)) and every misdemeanor and gross misdemeanor probationer ordered by a superior court to probation under the supervision of the department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

(a) Whose risk assessment places that offender or probationer in one of the two highest risk categories; or

(b) Regardless of the offender's or probationer's risk category if:

(i) The offender's or probationer's current conviction is for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(ii) The offender or probationer has a prior conviction for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) The conditions of the offender's community custody((, community placement, or community supervision)) or the probationer's supervision include chemical dependency treatment;

(iv) The offender was sentenced under RCW 9.94A.650 or 9.94A.670; or

(v) The offender is subject to supervision pursuant to RCW 9.94A.745.

(3) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody((, community placement, or community supervision)) or any probationer unless the offender or probationer is one for whom supervision is required under subsection (2) of this section.

(4) This section expires July 1, 2010.

Sec. 25. RCW 9.94A.505 and 2006 c 73 s 6 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, ((the court shall impose)) a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

(ii) ((RCW 9.94A.700 and 9.94A.705, relating to community placement)) Sections 7 and 8 of this act, relating to community custody;

(iii) ((RCW 9.94A.710 and 9.94A.715, relating to community custody);

(iv) RCW 9.94A.545, relating to community custody for offenders whose term of confinement is one year or less;

(v)) RCW 9.94A.570, relating to persistent offenders;

((vi)) (iv) RCW 9.94A.540, relating to mandatory minimum terms;

((vii)) (v) RCW 9.94A.650, relating to the first-time offender waiver;

((viii)) (vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;

((ix)) (vii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

((x)) (viii) RCW 9.94A.712, relating to certain sex offenses;

((xi)) (ix) RCW 9.94A.535, relating to exceptional sentences;

((xii)) (x) RCW 9.94A.589, relating to consecutive and concurrent sentences;

((xiii)) (xi) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; ((until July 1, 2000,)) a term of community ((supervision)) custody not to exceed one year ((and on and after July 1, 2000, a term of community custody not to exceed one year, subject to conditions and sanctions as authorized in RCW 9.94A.710 (2) and (3)); and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or ((community supervision, community placement, or)) community custody ((which)) that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

(9) ((The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to

believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment must be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate.

(10)) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

((11) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may, as part of any term of community supervision, community placement, or community custody, order the offender to participate in a domestic violence perpetrator program approved under RCW 26.50.150.))

Sec. 26. RCW 9.94A.610 and 2003 c 53 s 61 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, community ((placement)) custody, work release placement, furlough, or escape about a specific inmate convicted of a serious drug offense to the following if such notice has been requested in writing about a specific inmate convicted of a serious drug offense:

(a) Any witnesses who testified against the inmate in any court proceedings involving the serious drug offense; and

(b) Any person specified in writing by the prosecuting attorney. Information regarding witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate.

(2) If an inmate convicted of a serious drug offense escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses who are entitled to notice under this section. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The department of corrections shall send the notices required by this section to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section, "serious drug offense" means an offense under RCW 69.50.401(2) (a) or (b) or 69.50.401(2) (a) or (b).

Sec. 27. RCW 9.94A.612 and 1996 c 215 s 4 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than thirty days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, release, community ((placement)) custody, work release placement, furlough, or escape about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, to the following:

(a) The chief of police of the city, if any, in which the inmate will reside or in which placement will be made in a work release program; and

(b) The sheriff of the county in which the inmate will reside or in which placement will be made in a work release program.

The sheriff of the county where the offender was convicted shall be notified if the department does not know where the offender will reside. The department shall notify the state patrol of the release of all sex offenders, and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110:

(a) The victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

(b) Any witnesses who testified against the inmate in any court proceedings involving the violent offense;

(c) Any person specified in writing by the prosecuting attorney; and

(d) Any person who requests such notice about a specific inmate convicted of a sex offense as defined by RCW 9.94A.030 from the department of corrections at least sixty days prior to the expected release date of the offender.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate. Whenever the department of corrections mails notice pursuant to this subsection and the notice is returned as undeliverable, the department shall attempt alternative methods of notification, including a telephone call to the person's last known telephone number.

(3) The existence of the notice requirements contained in subsections (1) and (2) of this section shall not require an extension of the release date in the event that the release plan changes after notification.

(4) If an inmate convicted of a violent offense, a sex offense as defined by RCW 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(5) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(6) The department of corrections shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(7) The department of corrections shall keep, for a minimum of two years following the release of an inmate, the following:

(a) A document signed by an individual as proof that that person is registered in the victim or witness notification program; and

(b) A receipt showing that an individual registered in the victim or witness notification program was mailed a notice, at the individual's last known address, upon the release or movement of an inmate.

(8) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Next of kin" means a person's spouse, parents, siblings and children.

(9) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

Sec. 28. RCW 9.94A.625 and 2000 c 226 s 5 are each amended to read as follows:

(1) A term of confinement ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented himself or herself from confinement without the prior approval of the entity in whose custody the offender has been placed. A term of partial confinement shall be tolled during any period of time spent in total confinement pursuant to a new conviction or pursuant to sanctions for violation of sentence conditions on a separate felony conviction.

(2) Any term of community custody((, community placement, or community supervision)) shall be tolled by any period of time during which the offender has absented himself or herself from supervision without prior approval of the entity under whose supervision the offender has been placed.

(3) Any period of community custody((, community placement, or community supervision)) shall be tolled during any period of time the offender is in confinement for any reason. However, if an offender is detained pursuant to RCW 9.94A.740 or 9.94A.631 and is later found not to have violated a condition or requirement of community custody((, community placement, or community supervision)), time spent in confinement due to such detention shall not toll the period of community custody((, community placement, or community supervision)).

(4) For terms of confinement or community custody((, community placement, or community supervision)), the date for the tolling of the sentence shall be established by the entity responsible for the confinement or supervision.

Sec. 29. RCW 9.94A.650 and 2006 c 73 s 9 are each amended to read as follows:

(1) This section applies to offenders who have never been previously convicted of a felony in this state, federal court, or another state, and who have never participated in a program of deferred prosecution for a felony, and who are convicted of a felony that is not:

(a) Classified as a violent offense or a sex offense under this chapter;

(b) Manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in Schedule I or II that is a narcotic drug or flunitrazepam classified in Schedule IV;

(c) Manufacture, delivery, or possession with intent to deliver a methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2);

(d) The selling for profit of any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of marijuana; or

(e) Felony driving while under the influence of intoxicating liquor or any drug or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(2) In sentencing a first-time offender the court may waive the imposition of a sentence within the standard sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. ((The sentence may also include a term of community supervision or community custody as specified in subsection (3) of this section, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

(a) Devote time to a specific employment or occupation;

(b) Undergo available outpatient treatment for up to the period specified in subsection (3) of this section, or inpatient treatment not to exceed the standard range of confinement for that offense;

(c) Pursue a prescribed, secular course of study or vocational training;

(d) Remain within prescribed geographical boundaries and notify the community corrections officer prior to any change in the offender's address or employment;

(e) Report as directed to a community corrections officer; or

(f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community restitution work.))

(3) ((The terms and statuses applicable to sentences under subsection (2) of this section are:

(a) For sentences imposed on or after July 25, 1999, for crimes committed before July 1, 2000, up to one year of community supervision. If treatment is ordered, the period of community supervision may include up to the period of treatment, but shall not exceed two years; and

(b) For crimes committed on or after July 1, 2000,)) The court may impose up to one year of community custody unless treatment is ordered, in which case the period of community custody may include up to the period of treatment, but shall not exceed two years. ((Any term of community custody imposed under this section is subject to conditions and sanctions as authorized in this section and in RCW 9.94A.715 (2) and (3).))

(4) ((The department shall discharge from community supervision any offender sentenced under this section before July 25, 1999, who has served at least one year of community supervision and has completed any treatment ordered by the court.)) As a condition of community custody, in addition to any conditions authorized in section 9 of this act, the court may order the offender to pay all court-ordered legal financial obligations and/or perform community restitution work.

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 (3) or (4);

(b) The offender is convicted of a felony that is not a felony driving while under the influence of intoxicating liquor or any drug under RCW 46.61.502(6) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug under RCW 46.61.504(6);

(c) The offender has no current or prior convictions for a sex offense at any time or violent offense within ten years before conviction of the current offense, in this state, another state, or the United States;

(d) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance;

(e) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence;

(f) The standard sentence range for the current offense is greater than one year; and

(g) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

(2) A motion for a sentence under this section may be made by the court, the offender, or the state. If the sentencing court determines that the offender is eligible for this alternative, the court may order an examination of the offender. The examination shall, at a minimum, address the following issues:

(a) Whether the offender suffers from drug addiction;

(b) Whether the addiction is such that there is a probability that criminal behavior will occur in the future;

(c) Whether effective treatment for the offender's addiction is available from a provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services; and

(d) Whether the offender and the community will benefit from the use of the alternative.

(3) The examination report must contain:

(a) Information on the issues required to be addressed in subsection (2) of this section; and

(b) A proposed treatment plan that must, at a minimum, contain:

(i) A proposed treatment provider that has been licensed or certified by the division of alcohol and substance abuse of the department of social and health services;

(ii) The recommended frequency and length of treatment, including both residential chemical dependency treatment and treatment in the community;

(iii) A proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and

(iv) Recommended crime-related prohibitions and affirmative conditions.

(4) After receipt of the examination report, if the court determines that a sentence under this section is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based

alternative under subsection (5) of this section or a residential chemical dependency treatment-based alternative under subsection (6) of this section. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

(5) The prison-based alternative shall include:

(a) A period of total confinement in a state facility for one-half of the midpoint of the standard sentence range or twelve months, whichever is greater. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections;

(b) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services. If the department finds that conditions of community custody have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence. An offender who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court;

(c) Crime-related prohibitions including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to ((RCW 9.94A.715)) section 7 of this act to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

(6) The residential chemical dependency treatment-based alternative shall include:

(a) A term of community custody equal to one-half of the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court between three and six months. If the court imposes a term of community custody, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the term of community custody. The court shall impose, as conditions of community custody, treatment and other conditions as proposed in the plan under subsection (3)(b) of this section. ((The department may impose conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7), 9.94A.737, and 9.94A.740.)) The court shall schedule a progress hearing during the period of residential chemical dependency treatment, and schedule a treatment termination hearing for three months before the expiration of the term of community custody;

(b) Before the progress hearing and treatment termination hearing, the treatment provider and the department shall submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment. At the hearing, the court may:

(i) Authorize the department to terminate the offender's community custody status on the expiration date determined under (a) of this subsection; or

(ii) Continue the hearing to a date before the expiration date of community custody, with or without modifying the conditions of community custody; or

(iii) Impose a term of total confinement equal to one-half the midpoint of the standard sentence range, followed by a term of community custody under ((RCW 9.94A.715)) section 7 of this act;

(c) If the court imposes a term of total confinement under (b)(iii) of this subsection, the department shall, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

(7) ((If the court imposes a sentence under this section, the court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program.)) The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring for alcohol or controlled substances. ((In addition,))

(8) The court may impose any of the following conditions:

(a) ((Devote time to a specific employment or training;

(b) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;

(c) Report as directed to a community corrections officer;

(d)) Pay all court-ordered legal financial obligations; or

((e)) (b) Perform community restitution work(;

(f) Stay out of areas designated by the sentencing court;

(g) Such other conditions as the court may require such as affirmative conditions)).

((8)) (9)(a) The court may bring any offender sentenced under this section back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred.

(b) If the offender is brought back to court, the court may modify the ((terms)) conditions of the community custody or impose sanctions under (c) of this subsection.

(c) The court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions or requirements of the sentence or if the offender is failing to make satisfactory progress in treatment.

(d) An offender ordered to serve a term of total confinement under (c) of this subsection shall receive credit for any time previously served under this section.

((9)) (10) In serving a term of community custody imposed upon failure to complete, or administrative termination from, the special drug offender sentencing alternative program, the offender shall receive no credit for time served in community custody prior to termination of the offender's participation in the program.

(11) If an offender sentenced to the prison-based alternative under subsection (5) of this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the offender, and, if the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

((10)) (12) An offender sentenced under this section shall be subject to all rules relating to earned release time with respect to any period served in total confinement.

((11)) (13) Costs of examinations and preparing treatment plans under subsections (2) and (3) of this section may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 70.96A.350.

Sec. 31. RCW 9.94A.670 and 2006 c 133 s 1 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this subsection apply to this section only.

(a) "Sex offender treatment provider" or "treatment provider" means a certified sex offender treatment provider or a certified affiliate sex offender treatment provider as defined in RCW 18.155.020.

(b) "Substantial bodily harm" means bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any body part or organ, or that causes a fracture of any body part or organ.

(c) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(2) An offender is eligible for the special sex offender sentencing alternative if:

(a) The offender has been convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense. If the conviction results from a guilty plea, the offender must, as part of his or her plea of guilty, voluntarily and affirmatively admit he or she committed all of the elements of the crime to which the offender is pleading guilty. This alternative is not available to offenders who plead guilty to the offense charged under *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970) and *State v. Newton*, 87 Wash.2d 363, 552 P.2d 682 (1976);

(b) The offender has no prior convictions for a sex offense as defined in RCW 9.94A.030 or any other felony sex offenses in this or any other state;

(c) The offender has no prior adult convictions for a violent offense that was committed within five years of the date the current offense was committed;

(d) The offense did not result in substantial bodily harm to the victim;

(e) The offender had an established relationship with, or connection to, the victim such that the sole connection with the victim was not the commission of the crime; and

(f) The offender's standard sentence range for the offense includes the possibility of confinement for less than eleven years.

(3) If the court finds the offender is eligible for this alternative, the court, on its own motion or the motion of the state or the offender, may order an examination to determine whether the offender is amenable to treatment.

(a) The report of the examination shall include at a minimum the following:

(i) The offender's version of the facts and the official version of the facts;

(ii) The offender's offense history;

(iii) An assessment of problems in addition to alleged deviant behaviors;

(iv) The offender's social and employment situation; and

(v) Other evaluation measures used.

The report shall set forth the sources of the examiner's information.

(b) The examiner shall assess and report regarding the offender's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(i) Frequency and type of contact between offender and therapist;

(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions and affirmative conditions, which must include, to the extent known, an identification of specific activities or behaviors that are precursors to the offender's offense cycle, including, but not limited to, activities or behaviors such as viewing or listening to pornography or use of alcohol or controlled substances.

(c) The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The examiner shall be selected by the party making the motion. The offender shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(4) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this alternative, consider whether the alternative is too lenient in light of the extent and circumstances of the offense, consider whether the offender has victims in addition to the victim of the offense, consider whether the offender is amenable to treatment, consider the risk the offender would present to the community, to the victim, or to persons of similar age and circumstances as the victim, and consider the victim's opinion whether the offender should receive a treatment disposition under this section. The court shall give great weight to the victim's opinion whether the offender should receive a treatment disposition under this section. If the sentence imposed is contrary to the victim's opinion, the court shall enter written findings stating its reasons for imposing the treatment disposition. The fact that the offender admits to his or her offense does not, by itself, constitute amenability to treatment. If the court determines that this alternative is appropriate, the court shall then impose a sentence or, pursuant to RCW 9.94A.712, a minimum term of sentence, within the standard sentence range. If the sentence imposed is less than eleven years of confinement, the court may suspend the execution of the sentence ((and impose the following conditions of suspension:)) as provided in this section.

(5) As conditions of the suspended sentence, the court must impose the following:

(a) ((The court shall order the offender to serve)) A term of confinement of up to twelve months or the maximum term within the standard range, whichever is less. The court may order the offender to serve a term of confinement greater than twelve months or the maximum term within the standard range based on the presence of an aggravating circumstance listed in RCW 9.94A.535(3). In no case shall the term of confinement exceed the statutory maximum sentence for the offense. The court may order the offender to serve all or part of his or her term of confinement in partial confinement. An offender sentenced to a term of confinement under this subsection is not eligible for earned release under RCW 9.92.151 or 9.94A.728.

(b) ((The court shall place the offender on)) A term of community custody ((for)) equal to the length of the suspended sentence, the length of the maximum term imposed pursuant to RCW

9.94A.712, or three years, whichever is greater, and require the offender to comply with any conditions imposed by the department under ((RCW 9.94A.720)) section 9 of this act.

(c) ((The court shall order)) Treatment for any period up to five years in duration. The court, in its discretion, shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court. If any party or the court objects to a proposed change, the offender shall not change providers or conditions without court approval after a hearing.

(d) ((As conditions of the suspended sentence, the court shall impose)) Specific prohibitions and affirmative conditions relating to the known precursor activities or behaviors identified in the proposed treatment plan under subsection (3)(b)(v) of this section or identified in an annual review under subsection (((7))) (8)(b) of this section.

(((5))) (6) As conditions of the suspended sentence, the court may impose one or more of the following:

(a) Crime-related prohibitions;

(b) Require the offender to devote time to a specific employment or occupation;

(c) Require the offender to remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(d) Require the offender to report as directed to the court and a community corrections officer;

(e) Require the offender to pay all court-ordered legal financial obligations as provided in RCW 9.94A.030;

(f) Require the offender to perform community restitution work; or

(g) Require the offender to reimburse the victim for the cost of any counseling required as a result of the offender's crime.

(((6))) (7) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment.

(((7))) (8)(a) The sex offender treatment provider shall submit quarterly reports on the offender's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, offender's compliance with requirements, treatment activities, the offender's relative progress in treatment, and any other material specified by the court at sentencing.

(b) The court shall conduct a hearing on the offender's progress in treatment at least once a year. At least fourteen days prior to the hearing, notice of the hearing shall be given to the victim. The victim shall be given the opportunity to make statements to the court regarding the offender's supervision and treatment. At the hearing, the court may modify conditions of community custody including, but not limited to, crime-related prohibitions and affirmative conditions relating to activities and behaviors identified as part of, or relating to precursor activities and behaviors in, the offender's offense cycle or revoke the suspended sentence.

(((8))) (9) At least fourteen days prior to the treatment termination hearing, notice of the hearing shall be given to the victim. The victim shall be given the opportunity to make statements to the court regarding the offender's supervision and treatment. Prior to the treatment termination hearing, the treatment provider and community corrections officer shall submit written reports to the court and parties

regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community custody conditions. The court may order an evaluation regarding the advisability of termination from treatment by a sex offender treatment provider who may not be the same person who treated the offender under subsection (((4))) (5) of this section or any person who employs, is employed by, or shares profits with the person who treated the offender under subsection (((4))) (5) of this section unless the court has entered written findings that such evaluation is in the best interest of the victim and that a successful evaluation of the offender would otherwise be impractical. The offender shall pay the cost of the evaluation. At the treatment termination hearing the court may: (a) Modify conditions of community custody, and either (b) terminate treatment, or (c) extend treatment in two-year increments for up to the remaining period of community custody.

(((9))) (10)(a) If a violation of conditions other than a second violation of the prohibitions or affirmative conditions relating to precursor behaviors or activities imposed under subsection (((4))) (5)(d) or (((7))) (8)(b) of this section occurs during community custody, the department shall either impose sanctions as provided for in ((RCW 9.94A.737(2)(a))) section 15(1) of this act or refer the violation to the court and recommend revocation of the suspended sentence as provided for in subsections (((6))) (7) and (((8))) (9) of this section.

(b) If a second violation of the prohibitions or affirmative conditions relating to precursor behaviors or activities imposed under subsection (((4))) (5)(d) or (((7))) (8)(b) of this section occurs during community custody, the department shall refer the violation to the court and recommend revocation of the suspended sentence as provided in subsection (((10))) (11) of this section.

(((10))) (11) The court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence if: (a) The offender violates the conditions of the suspended sentence, or (b) the court finds that the offender is failing to make satisfactory progress in treatment. All confinement time served during the period of community custody shall be credited to the offender if the suspended sentence is revoked.

(((11))) (12) If the offender violates a requirement of the sentence that is not a condition of the suspended sentence pursuant to subsection (5) or (6) of this section, the department may impose sanctions pursuant to section 15(1) of this act.

(13) The offender's sex offender treatment provider may not be the same person who examined the offender under subsection (3) of this section or any person who employs, is employed by, or shares profits with the person who examined the offender under subsection (3) of this section, unless the court has entered written findings that such treatment is in the best interests of the victim and that successful treatment of the offender would otherwise be impractical. Examinations and treatment ordered pursuant to this subsection shall only be conducted by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW unless the court finds that:

(a) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; or

(b)(i) No certified sex offender treatment providers or certified affiliate sex offender treatment providers are available for treatment within a reasonable geographical distance of the offender's home; and

(ii) The evaluation and treatment plan comply with this section and the rules adopted by the department of health.

((12)) (14) If the offender is less than eighteen years of age when the charge is filed, the state shall pay for the cost of initial evaluation and treatment.

Sec. 32. RCW 9.94A.690 and 2006 c 73 s 11 are each amended to read as follows:

(1)(a) An offender is eligible to be sentenced to a work ethic camp if the offender:

(i) Is sentenced to a term of total confinement of not less than twelve months and one day or more than thirty-six months;

(ii) Has no current or prior convictions for any sex offenses or for violent offenses; and

(iii) Is not currently subject to a sentence for, or being prosecuted for, a violation of felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)), a violation of physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), a violation of the uniform controlled substances act, or a criminal solicitation to commit such a violation under chapter 9A.28 or 69.50 RCW.

(b) The length of the work ethic camp shall be at least one hundred twenty days and not more than one hundred eighty days.

(2) If the sentencing court determines that the offender is eligible for the work ethic camp and is likely to qualify under subsection (3) of this section, the judge shall impose a sentence within the standard sentence range and may recommend that the offender serve the sentence at a work ethic camp. In sentencing an offender to the work ethic camp, the court shall specify: (a) That upon completion of the work ethic camp the offender shall be released on community custody for any remaining time of total confinement; (b) the applicable conditions of ((supervision on)) community custody ((status)) as ((required by RCW 9.94A.700(4) and)) authorized by ((RCW 9.94A.700(5))) section 9 of this act; and (c) that violation of the conditions may result in a return to total confinement for the balance of the offender's remaining time of confinement.

(3) The department shall place the offender in the work ethic camp program, subject to capacity, unless: (a) The department determines that the offender has physical or mental impairments that would prevent participation and completion of the program; (b) the department determines that the offender's custody level prevents placement in the program; (c) the offender refuses to agree to the terms and conditions of the program; (d) the offender has been found by the United States attorney general to be subject to a deportation detainer or order; or (e) the offender has participated in the work ethic camp program in the past.

(4) An offender who fails to complete the work ethic camp program, who is administratively terminated from the program, or who otherwise violates any conditions of supervision, as defined by the department, shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court and shall be subject to all rules relating to earned release time.

(5) During the last two weeks prior to release from the work ethic camp program the department shall provide the offender with comprehensive transition training.

Sec. 33. RCW 9.94A.712 and 2006 c 124 s 3, 2006 c 122 s 5, and 2005 c 436 s 2 are each reenacted and amended to read as follows:

(1) An offender who is not a persistent offender shall be sentenced under this section if the offender:

(a) Is convicted of:

(i) Rape in the first degree, rape in the second degree, rape of a child in the first degree, child molestation in the first degree, rape of a child in the second degree, or indecent liberties by forcible compulsion;

(ii) Any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or

(iii) An attempt to commit any crime listed in this subsection (1)(a);

((committed on or after September 1, 2001;)) or

(b) Has a prior conviction for an offense listed in RCW 9.94A.030(((33))) (31)(b), and is convicted of any sex offense ((which was committed after September 1, 2001.

For purposes of this subsection (1)(b,)) other than failure to register ((is not a sex offense)).

(2) An offender convicted of rape of a child in the first or second degree or child molestation in the first degree who was seventeen years of age or younger at the time of the offense shall not be sentenced under this section.

(3)(a) Upon a finding that the offender is subject to sentencing under this section, the court shall impose a sentence to a maximum term and a minimum term.

(b) The maximum term shall consist of the statutory maximum sentence for the offense.

(c)(i) Except as provided in (c)(ii) of this subsection, the minimum term shall be either within the standard sentence range for the offense, or outside the standard sentence range pursuant to RCW 9.94A.535, if the offender is otherwise eligible for such a sentence.

(ii) If the offense that caused the offender to be sentenced under this section was rape of a child in the first degree, rape of a child in the second degree, or child molestation in the first degree, and there has been a finding that the offense was predatory under RCW 9.94A.836, the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater. If the offense that caused the offender to be sentenced under this section was rape in the first degree, rape in the second degree, indecent liberties by forcible compulsion, or kidnapping in the first degree with sexual motivation, and there has been a finding that the victim was under the age of fifteen at the time of the offense under RCW 9.94A.837, the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater. If the offense that caused the offender to be sentenced under this section is rape in the first degree, rape in the second degree with forcible compulsion, indecent liberties with forcible compulsion, or kidnapping in the first degree with sexual motivation, and there has been a finding under RCW 9.94A.838 that the victim was, at the time of the offense, developmentally disabled, mentally disordered, or a frail elder or vulnerable adult, the minimum sentence shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater.

(d) The minimum terms in (c)(ii) of this subsection do not apply to a juvenile tried as an adult pursuant to RCW 13.04.030(1)(e) (i) or (v). The minimum term for such a juvenile shall be imposed under (c)(i) of this subsection.

(4) A person sentenced under subsection (3) of this section shall serve the sentence in a facility or institution operated, or utilized under contract, by the state.

(5) When a court sentences a person to the custody of the department under this section, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody under the supervision of the department and the authority of the board for any period of time the person is released from total confinement before the expiration of the maximum sentence.

(6)(a)((i) Unless a condition is waived by the court, the conditions of community custody shall include those provided for in RCW 9.94A.700(4). The conditions may also include those provided for in RCW 9.94A.700(5). The court may also order the offender to participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community, and the department and the board shall enforce such conditions pursuant to RCW 9.94A.713, 9.95.425, and 9.95.430.

(ii) If the offense that caused the offender to be sentenced under this section was an offense listed in subsection (1)(a) of this section and the victim of the offense was under eighteen years of age at the time of the offense, the court shall, as a condition of community custody, prohibit the offender from residing in a community protection zone.

(b)) As part of any sentence under this section, the court shall also require the offender to comply with any conditions imposed by the board under RCW ((9.94A.713 and)) 9.95.420 through 9.95.435.

(b) An offender released by the board under RCW 9.95.420 is subject to the supervision of the department until the expiration of the maximum term of the sentence. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, department, or board, and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

Sec. 34. RCW 9.94A.728 and 2007 c 483 s 304 are each amended to read as follows:

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(a) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or

after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence. In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(b)(i) In the case of an offender who qualifies under (b)(ii) of this subsection, the aggregate earned release time may not exceed fifty percent of the sentence.

(ii) An offender is qualified to earn up to fifty percent of aggregate earned release time under this subsection (1)(b) if he or she:

(A) Is classified in one of the two lowest risk categories under (b)(iii) of this subsection;

(B) Is not confined pursuant to a sentence for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor); (C) Has no prior conviction for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(D) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(E) Has not committed a new felony after July 22, 2007, while under ((community supervision, community placement, or)) community custody.

(iii) For purposes of determining an offender's eligibility under this subsection (1)(b), the department shall perform a risk assessment of every offender committed to a correctional facility operated by the department who has no current or prior conviction for a sex offense, a violent offense, a crime against persons as defined in RCW 9.94A.411, a felony that is domestic violence as defined in RCW 10.99.020, a violation of RCW 9A.52.025 (residential burglary), a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine, or a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor). The department must classify each assessed offender in one of four risk categories between highest and lowest risk.

(iv) The department shall recalculate the earned release time and reschedule the expected release dates for each qualified offender under this subsection (1)(b).

(v) This subsection (1)(b) applies retroactively to eligible offenders serving terms of total confinement in a state correctional facility as of July 1, 2003.

(vi) This subsection (1)(b) does not apply to offenders convicted after July 1, 2010.

(c) In no other case shall the aggregate earned release time exceed one-third of the total sentence;

(2)(a) ((A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, vehicular homicide, vehicular assault, assault of a child in the second degree, any crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;

(b)) A person convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, ((committed on or after July 1, 2000,)) may become eligible, in accordance with a program developed by the department, for transfer to community custody ((status)) in lieu of earned release time pursuant to subsection (1) of this section;

((c)) (b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with ((community placement or)) community custody terms eligible for release to community custody ((status)) in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

((d)) (c) The department may deny transfer to community custody ((status)) in lieu of earned release time pursuant to subsection (1) of this section if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody ((or community placement));

((e)) (d) If the department denies transfer to community custody ((status)) in lieu of earned early release pursuant to ((d)) (c) of this subsection, the department may transfer an offender to partial confinement in lieu of earned early release up to three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in this section;

((f)) (e) An offender serving a term of confinement imposed under RCW 9.94A.670(((4))) (5)(a) is not eligible for earned release credits under this section;

(3) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(4)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(i) The offender has a medical condition that is serious enough to require costly care or treatment;

(ii) The offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and

(iii) Granting the extraordinary medical placement will result in a cost savings to the state.

(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(d) The secretary may revoke an extraordinary medical placement under this subsection at any time;

(5) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(6) No more than the final six months of the offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to subsection (2)((e)) (d) of this section;

(7) The governor may pardon any offender;

(8) The department may release an offender from confinement any time within ten days before a release date calculated under this section; ((and))

(9) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870(.); and

(10) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540, however persistent offenders are not eligible for extraordinary medical placement.

Sec. 35. RCW 9.94A.760 and 2005 c 263 s 1 are each amended to read as follows:

(1) Whenever a person is convicted in superior court, the court may order the payment of a legal financial obligation as part of the sentence. The court must on either the judgment and sentence or on a subsequent order to pay, designate the total amount of a legal financial obligation and segregate this amount among the separate assessments made for restitution, costs, fines, and other assessments required by law. On the same order, the court is also to set a sum that the offender is required to pay on a monthly basis towards satisfying the legal financial obligation. If the court fails to set the offender monthly payment amount, the department shall set the amount if the department has active supervision of the offender, otherwise the county clerk shall set the amount. Upon receipt of an offender's monthly payment, restitution shall be paid prior to any payments of other monetary obligations. After restitution is satisfied, the county

clerk shall distribute the payment proportionally among all other fines, costs, and assessments imposed, unless otherwise ordered by the court.

(2) If the court determines that the offender, at the time of sentencing, has the means to pay for the cost of incarceration, the court may require the offender to pay for the cost of incarceration at a rate of fifty dollars per day of incarceration, if incarcerated in a prison, or the court may require the offender to pay the actual cost of incarceration per day of incarceration, if incarcerated in a county jail. In no case may the court require the offender to pay more than one hundred dollars per day for the cost of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision shall take precedence over the payment of the cost of incarceration ordered by the court. All funds recovered from offenders for the cost of incarceration in the county jail shall be remitted to the county and the costs of incarceration in a prison shall be remitted to the department.

(3) The court may add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction is to be issued immediately. If the court chooses not to order the immediate issuance of a notice of payroll deduction at sentencing, the court shall add to the judgment and sentence or subsequent order to pay a statement that a notice of payroll deduction may be issued or other income-withholding action may be taken, without further notice to the offender if a monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal to or greater than the amount payable for one month is owed.

If a judgment and sentence or subsequent order to pay does not include the statement that a notice of payroll deduction may be issued or other income-withholding action may be taken if a monthly legal financial obligation payment is past due, the department or the county clerk may serve a notice on the offender stating such requirements and authorizations. Service shall be by personal service or any form of mail requiring a return receipt.

(4) Independent of the department or the county clerk, the party or entity to whom the legal financial obligation is owed shall have the authority to use any other remedies available to the party or entity to collect the legal financial obligation. These remedies include enforcement in the same manner as a judgment in a civil action by the party or entity to whom the legal financial obligation is owed. Restitution collected through civil enforcement must be paid through the registry of the court and must be distributed proportionately according to each victim's loss when there is more than one victim. The judgment and sentence shall identify the party or entity to whom restitution is owed so that the state, party, or entity may enforce the judgment. If restitution is ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of rape of a child or a victim's child born from the rape, the Washington state child support registry shall be identified as the party to whom payments must be made. Restitution obligations arising from the rape of a child in the first, second, or third degree that result in the pregnancy of the victim may be enforced for the time periods provided under RCW 9.94A.750(6) and 9.94A.753(6). All other legal financial obligations for an offense committed prior to July 1, 2000, may be enforced at any time during the ten-year period following the offender's release from total confinement or within ten years of entry of the judgment and sentence, whichever period ends later. Prior to the expiration of the initial ten-year period, the superior court may extend the criminal judgment an additional ten years for payment of legal financial obligations including crime victims' assessments. All other legal financial obligations for an offense committed on or after July 1, 2000, may be enforced at any time the offender remains under the

court's jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for purposes of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. The department may only supervise the offender's compliance with payment of the legal financial obligations during any period in which the department is authorized to supervise the offender in the community under RCW 9.94A.728, 9.94A.501, or in which the offender is confined in a state correctional institution or a correctional facility pursuant to a transfer agreement with the department, and the department shall supervise the offender's compliance during any such period. The department is not responsible for supervision of the offender during any subsequent period of time the offender remains under the court's jurisdiction. The county clerk is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations.

(5) In order to assist the court in setting a monthly sum that the offender must pay during the period of supervision, the offender is required to report to the department for purposes of preparing a recommendation to the court. When reporting, the offender is required, under oath, to respond truthfully and honestly to all questions concerning present, past, and future earning capabilities and the location and nature of all property or financial assets. The offender is further required to bring all documents requested by the department.

(6) After completing the investigation, the department shall make a report to the court on the amount of the monthly payment that the offender should be required to make towards a satisfied legal financial obligation.

(7)(a) During the period of supervision, the department may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the department sets the monthly payment amount, the department may modify the monthly payment amount without the matter being returned to the court. During the period of supervision, the department may require the offender to report to the department for the purposes of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all documents requested by the department in order to prepare the collection schedule.

(b) Subsequent to any period of supervision, or if the department is not authorized to supervise the offender in the community, the county clerk may make a recommendation to the court that the offender's monthly payment schedule be modified so as to reflect a change in financial circumstances. If the county clerk sets the monthly payment amount, or if the department set the monthly payment amount and the department has subsequently turned the collection of the legal financial obligation over to the county clerk, the clerk may modify the monthly payment amount without the matter being returned to the court. During the period of repayment, the county clerk may require the offender to report to the clerk for the purpose of reviewing the appropriateness of the collection schedule for the legal financial obligation. During this reporting, the offender is required under oath to respond truthfully and honestly to all questions concerning earning capabilities and the location and nature of all property or financial assets. The offender shall bring all

documents requested by the county clerk in order to prepare the collection schedule.

(8) After the judgment and sentence or payment order is entered, the department is authorized, for any period of supervision, to collect the legal financial obligation from the offender. Subsequent to any period of supervision or, if the department is not authorized to supervise the offender in the community, the county clerk is authorized to collect unpaid legal financial obligations from the offender. Any amount collected by the department shall be remitted daily to the county clerk for the purpose of disbursements. The department and the county clerks are authorized, but not required, to accept credit cards as payment for a legal financial obligation, and any costs incurred related to accepting credit card payments shall be the responsibility of the offender.

(9) The department or any obligee of the legal financial obligation may seek a mandatory wage assignment for the purposes of obtaining satisfaction for the legal financial obligation pursuant to RCW 9.94A.7701. Any party obtaining a wage assignment shall notify the county clerk. The county clerks shall notify the department, or the administrative office of the courts, whichever is providing the monthly billing for the offender.

(10) The requirement that the offender pay a monthly sum towards a legal financial obligation constitutes a condition or requirement of a sentence and the offender is subject to the penalties for noncompliance as provided in RCW 9.94A.634 (as recodified by this act), 9.94A.737, or 9.94A.740.

(11)(a) Until January 1, 2004, the department shall mail individualized monthly billings to the address known by the department for each offender with an unsatisfied legal financial obligation.

(b) Beginning January 1, 2004, the administrative office of the courts shall mail individualized monthly billings to the address known by the office for each offender with an unsatisfied legal financial obligation.

(c) The billing shall direct payments, other than outstanding cost of supervision assessments under RCW 9.94A.780, parole assessments under RCW 72.04A.120, and cost of probation assessments under RCW 9.95.214, to the county clerk, and cost of supervision, parole, or probation assessments to the department.

(d) The county clerk shall provide the administrative office of the courts with notice of payments by such offenders no less frequently than weekly.

(e) The county clerks, the administrative office of the courts, and the department shall maintain agreements to implement this subsection.

(12) The department shall arrange for the collection of unpaid legal financial obligations during any period of supervision in the community through the county clerk. The department shall either collect unpaid legal financial obligations or arrange for collections through another entity if the clerk does not assume responsibility or is unable to continue to assume responsibility for collection pursuant to subsection (4) of this section. The costs for collection services shall be paid by the offender.

(13) The county clerk may access the records of the employment security department for the purposes of verifying employment or income, seeking any assignment of wages, or performing other duties necessary to the collection of an offender's legal financial obligations.

(14) Nothing in this chapter makes the department, the state, the counties, or any state or county employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations or for the acts of any offender who is no longer, or was not, subject to supervision by the department for

a term of community custody, ((community placement, or community supervision,)) and who remains under the jurisdiction of the court for payment of legal financial obligations.

Sec. 36. RCW 9.94A.775 and 2003 c 379 s 17 are each amended to read as follows:

If an offender with an unsatisfied legal financial obligation is not subject to supervision by the department for a term of ((community placement,)) community custody, ((or community supervision,)) or has not completed payment of all legal financial obligations included in the sentence at the expiration of his or her term of ((community placement,)) community custody, ((or community supervision,)) the department shall notify the administrative office of the courts of the termination of the offender's supervision and provide information to the administrative office of the courts to enable the county clerk to monitor payment of the remaining obligations. The county clerk is authorized to monitor payment after such notification. The secretary of corrections and the administrator for the courts shall enter into an interagency agreement to facilitate the electronic transfer of information about offenders, unpaid obligations, and payees to carry out the purposes of this section.

Sec. 37. RCW 9.94A.780 and 2003 c 379 s 18 are each amended to read as follows:

(1) Whenever a punishment imposed under this chapter requires supervision services to be provided, the offender shall pay to the department of corrections the monthly assessment, prescribed under subsection (2) of this section, which shall be for the duration of the terms of supervision and which shall be considered as payment or part payment of the cost of providing supervision to the offender. The department may exempt or defer a person from the payment of all or any part of the assessment based upon any of the following factors:

(a) The offender has diligently attempted but has been unable to obtain employment that provides the offender sufficient income to make such payments.

(b) The offender is a student in a school, college, university, or a course of vocational or technical training designed to fit the student for gainful employment.

(c) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the department.

(d) The offender's age prevents him or her from obtaining employment.

(e) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship on the offender.

(f) Other extenuating circumstances as determined by the department.

(2) The department of corrections shall adopt a rule prescribing the amount of the assessment. The department may, if it finds it appropriate, prescribe a schedule of assessments that shall vary in accordance with the intensity or cost of the supervision. The department may not prescribe any assessment that is less than ten dollars nor more than fifty dollars.

(3) All amounts required to be paid under this section shall be collected by the department of corrections and deposited by the department in the dedicated fund established pursuant to RCW 72.11.040.

(4) This section shall not apply to probation services provided under an interstate compact pursuant to chapter 9.95 RCW or to probation services provided for persons placed on probation prior to June 10, 1982.

(5) If a county clerk assumes responsibility for collection of unpaid legal financial obligations under RCW 9.94A.760, or under any agreement with the department under that section, whether before or after the completion of any period of ((community placement,)) community custody, ((or community supervision,)) the clerk may impose a monthly or annual assessment for the cost of collections. The amount of the assessment shall not exceed the actual cost of collections. The county clerk may exempt or defer payment of all or part of the assessment based upon any of the factors listed in subsection (1) of this section. The offender shall pay the assessment under this subsection to the county clerk who shall apply it to the cost of collecting legal financial obligations under RCW 9.94A.760.

Sec. 38. RCW 9.94A.820 and 2004 c 38 s 10 are each amended to read as follows:

(1) Sex offender examinations and treatment ordered as a special condition of ((community placement or)) community custody under this chapter shall be conducted only by certified sex offender treatment providers or certified affiliate sex offender treatment providers under chapter 18.155 RCW unless the court or the department finds that: (a) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (b) the treatment provider is employed by the department; or (c)(i) no certified sex offender treatment providers or certified affiliate sex offender treatment providers are available to provide treatment within a reasonable geographic distance of the offender's home, as determined in rules adopted by the secretary; and (ii) the evaluation and treatment plan comply with the rules adopted by the department of health. A treatment provider selected by an offender under (c) of this subsection, who is not certified by the department of health shall consult with a certified sex offender treatment provider during the offender's period of treatment to ensure compliance with the rules adopted by the department of health. The frequency and content of the consultation shall be based on the recommendation of the certified sex offender treatment provider.

(2) A sex offender's failure to participate in treatment required as a condition of ((community placement or)) community custody is a violation that will not be excused on the basis that no treatment provider was located within a reasonable geographic distance of the offender's home.

Sec. 39. RCW 4.24.556 and 2004 c 38 s 1 are each amended to read as follows:

(1) A certified sex offender treatment provider, or a certified affiliate sex offender treatment provider who has completed at least fifty percent of the required hours under the supervision of a certified sex offender treatment provider, acting in the course of his or her duties, providing treatment to a person who has been released to a less restrictive alternative under chapter 71.09 RCW or to a level III sex offender on community custody as a court ((or)), department, or board ordered condition of sentence is not negligent because he or she treats a high risk offender; sex offenders are known to have a risk of reoffense. The treatment provider is not liable for civil damages resulting from the reoffense of a client unless the treatment provider's acts or omissions constituted gross negligence or willful or wanton misconduct. This limited liability provision does not eliminate the treatment provider's duty to warn of and protect from a client's threatened violent behavior if the client communicates a serious threat of physical violence against a reasonably ascertainable victim or victims. In addition to any other requirements to report violations, the sex offender treatment provider is obligated to report an

offender's expressions of intent to harm or other predatory behavior, whether or not there is an ascertainable victim, in progress reports and other established processes that enable courts and supervising entities to assess and address the progress and appropriateness of treatment. This limited liability provision applies only to the conduct of certified sex offender treatment providers, and certified affiliate sex offender treatment providers who have completed at least fifty percent of the required hours under the supervision of a certified sex offender treatment provider, and not the conduct of the state.

(2) Sex offender treatment providers who provide services to the department of corrections by identifying risk factors and notifying the department of risks for the subset of high risk offenders who are not amenable to treatment and who are under court order for treatment or supervision are practicing within the scope of their profession.

Sec. 40. RCW 9.95.017 and 2003 c 218 s 2 are each amended to read as follows:

(1) The board shall cause to be prepared criteria for duration of confinement, release on parole, and length of parole for persons committed to prison for crimes committed before July 1, 1984.

The proposed criteria should take into consideration RCW 9.95.009(2). Before submission to the governor, the board shall solicit comments and review on their proposed criteria for parole release.

(2) Persons committed to the department of corrections and who are under the authority of the board for crimes committed on or after September 1, 2001, are subject to the provisions for duration of confinement, release to community custody, and length of community custody established in RCW 9.94A.712, ((9.94A.713)) section 10 of this act, 72.09.335, and 9.95.420 through 9.95.440.

Sec. 41. RCW 9.95.064 and 2001 2nd sp.s. c 12 s 326 are each amended to read as follows:

(1) In order to minimize the trauma to the victim, the court may attach conditions on release of an offender under RCW 9.95.062, convicted of a crime committed before July 1, 1984, regarding the whereabouts of the defendant, contact with the victim, or other conditions.

(2) Offenders released under RCW 9.95.420 are subject to crime-related prohibitions and affirmative conditions established by the court, the department of corrections, or the board pursuant to RCW ((9.94A.715 and)) 9.94A.712, ((9.94A.713)) section 10 of this act, 72.09.335, and 9.95.420 through 9.95.440.

Sec. 42. RCW 9.95.110 and 2003 c 218 s 7 are each amended to read as follows:

(1) The board may permit an offender convicted of a crime committed before July 1, 1984, to leave the buildings and enclosures of a state correctional institution on parole, after such convicted person has served the period of confinement fixed for him or her by the board, less time credits for good behavior and diligence in work: PROVIDED, That in no case shall an inmate be credited with more than one-third of his or her sentence as fixed by the board.

The board may establish rules and regulations under which an offender may be allowed to leave the confines of a state correctional institution on parole, and may return such person to the confines of the institution from which he or she was paroled, at its discretion.

(2) The board may permit an offender convicted of a crime committed on or after September 1, 2001, and sentenced under RCW 9.94A.712, to leave a state correctional institution on community custody according to the provisions of RCW 9.94A.712, ((9.94A.713)) section 10 of this act, 72.09.335, and 9.95.420 through

9.95.440. The person may be returned to the institution following a violation of his or her conditions of release to community custody pursuant to the hearing provisions of RCW 9.95.435.

Sec. 43. RCW 9.95.123 and 2001 2nd sp.s. c 12 s 336 are each amended to read as follows:

In conducting on-site parole hearings or community custody revocation ((hearings or community custody)) or violations hearings, the board shall have the authority to administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas for the compulsory attendance of witnesses and the production of evidence for presentation at such hearings. Subpoenas issued by the board shall be effective throughout the state. Witnesses in attendance at any on-site parole or community custody revocation hearing shall be paid the same fees and allowances, in the same manner and under the same conditions as provided for witnesses in the courts of the state in accordance with chapter 2.40 RCW. If any person fails or refuses to obey a subpoena issued by the board, or obeys the subpoena but refuses to testify concerning any matter under examination at the hearing, the board may petition the superior court of the county where the hearing is being conducted for enforcement of the subpoena: PROVIDED, That an offer to pay statutory fees and mileage has been made to the witness at the time of the service of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the board. The court, upon such petition, shall enter an order directing the witness to appear before the court at a time and place to be fixed in such order and then and there to show cause why he or she has not responded to the subpoena or has refused to testify. A copy of the order shall be served upon the witness. If it appears to the court that the subpoena was properly issued and that the particular questions which the witness refuses to answer are reasonable and relevant, the court shall enter an order that the witness appear at the time and place fixed in the order and testify or produce the required papers, and on failing to obey the order, the witness shall be dealt with as for contempt of court.

Sec. 44. RCW 9.95.420 and 2007 c 363 s 2 are each amended to read as follows:

(1)(a) Except as provided in (c) of this subsection, before the expiration of the minimum term, as part of the end of sentence review process under RCW 72.09.340, 72.09.345, and where appropriate, 72.09.370, the department shall conduct, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(b) The board may contract for an additional, independent examination, subject to the standards in this section.

(c) If at the time the sentence is imposed by the superior court the offender's minimum term has expired or will expire within one hundred twenty days of the sentencing hearing, the department shall conduct, within ninety days of the offender's arrival at a department of corrections facility, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released.

(2) The board shall impose the conditions and instructions provided for in ((RCW 9.94A.720)) section 10 of this act. The board

shall consider the department's recommendations and may impose conditions in addition to those recommended by the department. The board may impose or modify conditions of community custody following notice to the offender.

(3)(a) Except as provided in (b) of this subsection, no later than ninety days before expiration of the minimum term, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term as provided in RCW 9.95.011.

(b) If at the time the offender's minimum term has expired or will expire within one hundred twenty days of the offender's arrival at a department of correction's facility, then no later than one hundred twenty days after the offender's arrival at a department of corrections facility, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether it is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the offender will commit sex offenses if released. If the board does not order the offender released, the board shall establish a new minimum term as provided in RCW 9.95.011.

(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for the victims of any crimes for which the offender has been convicted to present oral, video, written, or in-person testimony to the board. The procedures for victim input shall be developed by rule. To facilitate victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record are forwarded as part of the judgment and sentence.

Sec. 45. RCW 9.95.440 and 2003 c 218 s 6 are each amended to read as follows:

In the event the board suspends the release status of an offender released under RCW 9.95.420 by reason of an alleged violation of a condition of release, or pending disposition of a new criminal charge, the board may nullify the suspension order and reinstate release under previous conditions or any new conditions the board determines advisable under ((RCW 9.94A.713(5))) section 10 of this act. Before the board may nullify a suspension order and reinstate release, it shall determine that the best interests of society and the offender shall be served by such reinstatement rather than return to confinement.

Sec. 46. RCW 46.61.524 and 2006 c 73 s 16 are each amended to read as follows:

((1)) A person convicted under RCW 46.61.502(6), 46.61.504(6), 46.61.520(1)(a), or 46.61.522(1)(b) shall, as a condition of community custody imposed under RCW 9.94A.545 or community placement imposed under RCW 9.94A.660, complete a diagnostic evaluation by an alcohol or drug dependency agency approved by the department of social and health services or a qualified probation department, as defined under RCW 46.61.516 that has been approved by the department of social and health services. This report shall be forwarded to the department of licensing. If the person is found to have an alcohol or drug problem that requires treatment, the person shall complete treatment in a program approved by the department of social and health services under chapter 70.96A RCW. If the person is found not to have an alcohol or drug problem that requires treatment, he or she shall complete a course in an information school approved by the department of social and health services under chapter 70.96A RCW. The convicted person shall pay all costs for any evaluation, education, or treatment required by this section, unless the person is eligible for an existing program offered or approved by the department of social and health services. Nothing in chapter 348, Laws of 1991 requires the addition of new treatment or assessment facilities nor affects the department of social and health services use of existing programs and facilities authorized by law.

((2)) As provided for under RCW 46.20.285, the department shall revoke the license, permit to drive, or a nonresident privilege of a person convicted of vehicular homicide under RCW 46.61.520 or vehicular assault under RCW 46.61.522. The department shall determine the eligibility of a person convicted of vehicular homicide under RCW 46.61.520(1)(a) or vehicular assault under RCW 46.61.522(1)(b) to receive a license based upon the report provided by the designated alcoholism treatment facility or probation department designated pursuant to section 9(4)(b) of this act, and shall deny reinstatement until satisfactory progress in an approved program has been established and the person is otherwise qualified.

Sec. 47. RCW 72.09.015 and 2007 c 483 s 202 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

((1)) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

((2)) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

((3)) "Community custody" has the same meaning as that provided in RCW 9.94A.030 and also includes community placement and community supervision as defined in section 52 of this act.

((4)) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

((4)) (5) "County" means a county or combination of counties.

((5)) (6) "Department" means the department of corrections.

((6)) (7) "Earned early release" means earned release as authorized by RCW 9.94A.728.

((7)) (8) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

((8)) (9) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

((9)) (10) "Good conduct" means compliance with department rules and policies.

((10)) (11) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

((11)) (12) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

((12)) (13) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

((13)) (14) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the ((offenders' [offender's])) offender's risks and needs. The individual reentry plan describes actions that should occur to prepare individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of supervision. An individual reentry plan is updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

((14)) (15) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released from such facility on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

((15)) (16) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

((16)) (17) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

((17)) (18) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

((18)) (19) "Secretary" means the secretary of corrections or his or her designee.

((19)) (20) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

((20)) (21) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

((21)) (22) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

((22)) (23) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

((23)) (24) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

((24)) (25) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

Sec. 48. RCW 72.09.270 and 2007 c 483 s 203 are each amended to read as follows:

(1) The department of corrections shall develop an individual reentry plan as defined in RCW 72.09.015 for every offender who is committed to the jurisdiction of the department except:

(a) Offenders who are sentenced to life without the possibility of release or sentenced to death under chapter 10.95 RCW; and

(b) Offenders who are subject to the provisions of 8 U.S.C. Sec. 1227.

(2) The individual reentry plan may be one document, or may be a series of individual plans that combine to meet the requirements of this section.

(3) In developing individual reentry plans, the department shall assess all offenders using standardized and comprehensive tools to identify the criminogenic risks, programmatic needs, and educational and vocational skill levels for each offender. The assessment tool should take into account demographic biases, such as culture, age, and gender, as well as the needs of the offender, including any learning disabilities, substance abuse or mental health issues, and social or behavior deficits.

(4)(a) The initial assessment shall be conducted as early as sentencing, but, whenever possible, no later than forty-five days of being sentenced to the jurisdiction of the department of corrections.

(b) The offender's individual reentry plan shall be developed as soon as possible after the initial assessment is conducted, but, whenever possible, no later than sixty days after completion of the assessment, and shall be periodically reviewed and updated as appropriate.

(5) The individual reentry plan shall, at a minimum, include:

(a) A plan to maintain contact with the inmate's children and family, if appropriate. The plan should determine whether parenting classes, or other services, are appropriate to facilitate successful reunification with the offender's children and family;

(b) An individualized portfolio for each offender that includes the offender's education achievements, certifications, employment, work experience, skills, and any training received prior to and during incarceration; and

(c) A plan for the offender during the period of incarceration through reentry into the community that addresses the needs of the offender including education, employment, substance abuse treatment, mental health treatment, family reunification, and other areas which are needed to facilitate a successful reintegration into the community.

(6)(a) Prior to discharge of any offender, the department shall:

(i) Evaluate the offender's needs and, to the extent possible, connect the offender with existing services and resources that meet those needs; and

(ii) Connect the offender with a community justice center and/or community transition coordination network in the area in which the offender will be residing once released from the correctional system if one exists.

(b) If the department recommends partial confinement in an offender's individual reentry plan, the department shall maximize the period of partial confinement for the offender as allowed pursuant to RCW 9.94A.728 to facilitate the offender's transition to the community.

(7) The department shall establish mechanisms for sharing information from individual reentry plans to those persons involved with the offender's treatment, programming, and reentry, when deemed appropriate. When feasible, this information shall be shared electronically.

(8)(a) In determining the county of discharge for an offender released to community custody ((or community placement)), the department may not approve a residence location that is not in the offender's county of origin unless it is determined by the department that the offender's return to his or her county of origin would be inappropriate considering any court-ordered condition of the offender's sentence, victim safety concerns, negative influences on the offender in the community, or the location of family or other sponsoring persons or organizations that will support the offender.

(b) If the offender is not returned to his or her county of origin, the department shall provide the law and justice council of the county in which the offender is placed with a written explanation.

(c) For purposes of this section, the offender's county of origin means the county of the offender's first felony conviction in Washington.

(9) Nothing in this section creates a vested right in programming, education, or other services.

Sec. 49. RCW 72.09.345 and 1997 c 364 s 4 are each amended to read as follows:

(1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public concerning offenders convicted of sex offenses.

(2) In order for public agencies to have the information necessary to notify the public as authorized in RCW 4.24.550, the secretary shall establish and administer an end-of-sentence review committee for the purposes of assigning risk levels, reviewing available release plans, and making appropriate referrals for sex offenders. The committee shall assess, on a case-by-case basis, the public risk posed by sex offenders who are: (a) Preparing for their release from confinement for sex offenses committed on or after July 1, 1984; and (b) accepted from another state under a reciprocal agreement under the interstate compact authorized in chapter 72.74 RCW.

(3) Notwithstanding any other provision of law, the committee shall have access to all relevant records and information in the possession of public agencies relating to the offenders under review, including police reports; prosecutors' statements of probable cause; presentence investigations and reports; complete judgments and sentences; current classification referrals; criminal history summaries; violation and disciplinary reports; all psychological evaluations and psychiatric hospital reports; sex offender treatment program reports; and juvenile records. Records and information obtained under this subsection shall not be disclosed outside the committee unless otherwise authorized by law.

(4) The committee shall review each sex offender under its authority before the offender's release from confinement or start of

the offender's term of ((community placement or)) community custody in order to: (a) Classify the offender into a risk level for the purposes of public notification under RCW 4.24.550; (b) where available, review the offender's proposed release plan in accordance with the requirements of RCW 72.09.340; and (c) make appropriate referrals.

(5) The committee shall classify as risk level I those sex offenders whose risk assessments indicate a low risk of reoffense within the community at large. The committee shall classify as risk level II those offenders whose risk assessments indicate a moderate risk of reoffense within the community at large. The committee shall classify as risk level III those offenders whose risk assessments indicate a high risk of reoffense within the community at large.

(6) The committee shall issue to appropriate law enforcement agencies, for their use in making public notifications under RCW 4.24.550, narrative notices regarding the pending release of sex offenders from the department's facilities. The narrative notices shall, at a minimum, describe the identity and criminal history behavior of the offender and shall include the department's risk level classification for the offender. For sex offenders classified as either risk level II or III, the narrative notices shall also include the reasons underlying the classification.

Sec. 50. RCW 72.09.580 and 1999 c 196 s 12 are each amended to read as follows:

Except as specifically prohibited by other law, and for purposes of determining, modifying, or monitoring compliance with conditions of community custody((, community placement, or community supervision as authorized under RCW 9.94A.505 and 9.94A.545)), the department:

(1) Shall have access to all relevant records and information in the possession of public agencies relating to offenders, including police reports, prosecutors' statements of probable cause, complete criminal history information, psychological evaluations and psychiatric hospital reports, sex offender treatment program reports, and juvenile records; and

(2) May require periodic reports from providers of treatment or other services required by the court or the department, including progress reports, evaluations and assessments, and reports of violations of conditions imposed by the court or the department.

NEW SECTION. Sec. 51. (1) This chapter codifies sentencing provisions that may be applicable to sentences for crimes committed prior to July 1, 2000.

(2) This chapter supplements chapter 9.94A RCW and should be read in conjunction with that chapter.

NEW SECTION. Sec. 52. In addition to the definitions set out in RCW 9.94A.030, the following definitions apply for purposes of this chapter:

(1) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(2) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. Where the court finds

that any offender has a chemical dependency that has contributed to his or her offense, the conditions of supervision may, subject to available resources, include treatment. For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(3) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

NEW SECTION. Sec. 53. The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment must be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate

NEW SECTION. Sec. 54. A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, vehicular homicide, vehicular assault, assault of a child in the second degree, any crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to RCW 9.94A.728(1).

NEW SECTION. Sec. 55. (1) Sections 6 through 58 of this act apply to all sentences imposed or reimposed on or after August 1, 2009, for any crime committed on or after the effective date of this section.

(2) Sections 6 through 58 of this act also apply to all sentences imposed or reimposed on or after August 1, 2009, for crimes committed prior to the effective date of this section, to the extent that such application is constitutionally permissible.

(3) To the extent that application of sections 6 through 58 of this act is not constitutionally permissible with respect to any offender, the sentence for such offender shall be governed by the law as it existed before the effective date of this section, or on such prior date as may be constitutionally required, notwithstanding any amendment or repeal of provisions of such law.

(4) If application of sections 6 through 58 of this act is not constitutionally permissible with respect to any offender, the judgment and sentence shall specify the particular sentencing provisions that will not apply to such offender. Whenever practical, the judgment and sentence shall use the terminology set out in this act.

(5) The sentencing guidelines commission shall prepare a summary of the circumstances under which application of sections 6 through 58 of this act is not constitutionally permissible. The summary should include recommendations of conditions that could be included in judgments and sentences in order to prevent unconstitutional application of the act. This summary shall be incorporated into the Adult Sentencing Guidelines Manual.

(6) Sections 6 through 58 of this act shall not affect the enforcement of any sentence that was imposed prior to August 1, 2009, unless the offender is resentenced after that date.

NEW SECTION. Sec. 56. (1) The following sections are recodified as part of a new chapter in Title 9 RCW: RCW 9.94A.628, 9.94A.634, 9.94A.700, 9.94A.705, and 9.94A.710.

(2) RCW 9.94A.610 (as amended by this act), 9.94A.612 (as amended by this act), 9.94A.614, 9.94A.616, 9.94A.618, and 9.94A.620 are each recodified as sections in chapter 72.09 RCW.

(3) Sections 51 through 54 of this act are added to the new chapter created in subsection (1) of this section.

(4) The code reviser is authorized to improve the organization of chapter 9.94A RCW by renumbering existing sections and adding subchapter headings.

(5) The code reviser shall correct any cross-references to sections affected by this section in other sections of the code.

NEW SECTION. Sec. 57. The following acts or parts of acts are each repealed:

(14) RCW 9.94A.545 (Community custody) and 2006 c 128 s 4, 2003 c 379 s 8, 2000 c 28 s 13, 1999 c 196 s 10, 1988 c 143 s 23, & 1984 c 209 s 22;

(15) RCW 9.94A.713 (Nonpersistent offenders--Conditions) and 2006 c 130 s 1 & 2001 2nd sp.s. c 12 s 304;

(16) RCW 9.94A.715 (Community custody for specified offenders--Conditions) and 2006 c 130 s 2, 2006 c 128 s 5, 2003 c 379 s 6, 2001 2nd sp.s. c 12 s 302, 2001 c 10 s 5, & 2000 c 28 s 25;

(17) RCW 9.94A.720 (Supervision of offenders) and 2003 c 379 s 7, 2002 c 175 s 14, & 2000 c 28 s 26;

(18) RCW 9.94A.800 (Sex offender treatment in correctional facility) and 2000 c 28 s 34;

(19) RCW 9.94A.830 (Legislative finding and intent--Commitment of felony sexual offenders after July 1, 1987) and 1987 c 402 s 2 & 1986 c 301 s 1; and

(20) RCW 79A.60.070 (Conviction under RCW 79A.60.050 or 79A.60.060--Community supervision or community placement--Conditions) and 2000 c 11 s 96 & 1998 c 219 s 3.

NEW SECTION. Sec. 58. The repealers in section 57 of this act shall not affect the validity of any sentence that was imposed prior to the effective date of this section or the authority of the department of corrections to supervise any offender pursuant to such sentence.

NEW SECTION. Sec. 59. The code reviser shall report to the 2009 legislature on any amendments necessary to accomplish the purposes of this act.

NEW SECTION. Sec. 60. Section 24 of this act expires July 1, 2010.

NEW SECTION. Sec. 61. Sections 6 through 60 of this act take effect August 1, 2009.

NEW SECTION. Sec. 62. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 2 of the title, after "sentences;" strike the remainder of the title and insert "amending RCW 9.94A.500, 9.94A.530, 9.94A.737, 9.94A.740, 9.94A.501, 9.94A.505,

9.94A.610, 9.94A.612, 9.94A.625, 9.94A.650, 9.94A.670, 9.94A.690, 9.94A.728, 9.94A.760, 9.94A.775, 9.94A.780, 9.94A.820, 4.24.556, 9.95.017, 9.95.064, 9.95.110, 9.95.123, 9.95.420, 9.95.440, 46.61.524, 72.09.015, 72.09.270, 72.09.345, and 72.09.580; reenacting and amending RCW 9.94A.525, 9.94A.030, 9.94A.660, and 9.94A.712; adding new sections to chapter 9.94A RCW; adding new sections to chapter 72.09 RCW; adding a new chapter to Title 9 RCW; creating new sections; recodifying RCW 9.94A.628, 9.94A.634, 9.94A.700, 9.94A.705, 9.94A.710, 9.94A.610, 9.94A.612, 9.94A.614, 9.94A.616, 9.94A.618, and 9.94A.620; repealing RCW 9.94A.545, 9.94A.713, 9.94A.715, 9.94A.720, 9.94A.800, 9.94A.830, and 79A.60.070; providing an effective date; and providing an expiration date."

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. 2719 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Priest and O'Brien 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. 2719, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 2719, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yea: Representatives 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, Miloschia, 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

HOUSE BILL NO. 2719, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 12, 2008

Mr. Speaker:

The Senate receded from its amendment to SUBSTITUTE HOUSE BILL NO. 2788. Under suspension of the rules the bill was returned to second reading for purpose of amendment. The Senate adopted the following amendment and passed the bill as amended by the Senate:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The code reviser is directed to put the defined terms in RCW 77.08.010 in alphabetical order.

Sec. 2. RCW 77.08.010 and 2007 c 350 s 2 and 2007 c 254 s 1 are each reenacted and amended to read as follows:

((As used in)) The definitions in this section apply throughout this title or rules adopted under this title(,) unless the context clearly requires otherwise(,).)

(1) "Director" means the director of fish and wildlife.

(2) "Department" means the department of fish and wildlife.

(3) "Commission" means the state fish and wildlife commission.

(4) "Person" means and includes an individual; a corporation; a public or private entity or organization; a local, state, or federal agency; all business organizations, including corporations and partnerships; or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.

(5) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol officer.

(6) "Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

(7) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.

(8) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

(9) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.

(10) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that conform to the special restrictions or physical descriptions established by rule of the

commission or that have otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

(11) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission as an open season.

(12) "Closed area" means a place where the hunting of some or all species of wild animals or wild birds is prohibited.

(13) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing or harvesting is prohibited.

(14) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

(15) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

(16) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, old world rats and mice of the family Muridae of the order Rodentia, or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

(17) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state and the species *Rana catesbeiana* (bullfrog). The term "wild animal" does not include feral domestic mammals or old world rats and mice of the family Muridae of the order Rodentia.

(18) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

(19) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

(20) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

(21) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

(22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

(23) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

(24) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

(25) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

(26) "Game farm" means property on which wildlife is held or raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

(27) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.

(28) "Raffle" means an activity in which tickets bearing an individual number are sold for not more than twenty-five dollars each

and in which a permit or permits are awarded to hunt or for access to hunt big game animals or wild turkeys on the basis of a drawing from the tickets by the person or persons conducting the raffle.

(29) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

(30) "Senior" means a person seventy years old or older.

(31) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

(32) "Saltwater" means those marine waters seaward of river mouths.

(33) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

(34) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

(35) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

(36) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

(37) "Resident" means:

(a) A person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, and who is not licensed to hunt or fish as a resident in another state; and

(b) A person age eighteen or younger who does not qualify as a resident under (a) of this subsection, but who has a parent that qualifies as a resident under (a) of this subsection.

(38) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

(39) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

(40) "Commercial" means related to or connected with buying, selling, or bartering.

(41) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

(42) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

(43) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a hand-held line operated without rod or reel.

(44) "Fishery" means the taking of one or more particular species of fish or shellfish with particular gear in a particular geographical area.

(45) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

(46) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.

(47) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

(48) "Invasive species" means a plant species or a nonnative animal species that either:

(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;

(b) Threatens or may threaten natural resources or their use in the state;

(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

(d) Threatens or harms human health.

(49) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.

(50) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.

(51) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.

(52) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.

(53) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.

(54) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.

(55) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under subsections (48) through (53) of this section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

(56) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors."

On page 1, line 1 of the title, after "RCW;" strike the remainder of the title and insert "reenacting and amending RCW 77.08.010; and creating a new section."

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. 2788 and advanced the bill as amended by the Senate to final passage.

FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Van de Wege 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. 2788, as amended by the Senate.

ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 2788, as amended by the Senate, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

Voting yeas: 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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

SUBSTITUTE HOUSE BILL NO. 2788, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

MESSAGE FROM THE SENATE

March 10, 2008

Mr. Speaker:

The Senate refuses to concur in the House amendment to ENGROSSED SUBSTITUTE SENATE BILL NO. 6792 and asks the House to recede therefrom, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

HOUSE AMENDMENT TO SENATE BILL

There being no objection, the House receded from its amendment, the rules were suspended and ENGROSSED SUBSTITUTE SENATE BILL NO. 6792 was returned to second reading for purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

SECOND READING

ENGROSSED SUBSTITUTE SENATE BILL NO. 6792 by Senate Human Services & Corrections (originally sponsored by Senators Hargrove and Stevens)

Concerning dependency matters.

Representative Kagi moved the adoption of amendment (1572):

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.34.215 and 2007 c 413 s 1 are each amended to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c) The child has not achieved his or her permanency plan within three years of a final order of termination((, or if the final order was appealed, within three years of exhaustion of any right to appeal the order terminating parental rights)); and

(d) ((Absent good cause,)) The child must be at least twelve years old at the time the petition is filed. Upon the child's motion for good cause shown, or on its own motion, the court may hear a petition filed by a child younger than twelve years old.

(2) A child seeking to petition under this section shall be provided counsel at no cost to the child.

(3) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

(4) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, ((it appears)) the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

(5) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department, the child's attorney, and the child. The court shall also order the department to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(6) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(7) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department shall provide the court, and the court shall review, information related to any efforts to achieve

the permanency plan including efforts to achieve adoption or a permanent guardianship.

(8)(a) If the court conditionally grants the petition under subsection (6) of this section, the case will be continued for six months and a temporary order of reinstatement entered. During this period, the child shall be placed in the custody of the parent. The department shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

(9) After the child has been placed with the parent for six months, the court shall hold a hearing. If the placement with the parent has been successful, the court shall enter a final order of reinstatement of parental rights, which shall restore all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including those relating to custody, control, and support of the child. The court shall dismiss the dependency and direct the clerk's office to provide a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

(10) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

((10)) (11) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 or Title 26 RCW or costs of other services provided to a child for the time period from the date of termination of parental rights to the date parental rights are reinstated.

((11)) (12) A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child. This reinstatement is a recognition that the situation of the parent and child have changed since the time of the termination of parental rights and reunification is now appropriate.

((12)) (13) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(14) The state, the department, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the state, the department, or its employees concerning the original termination.

Sec. 2. RCW 13.34.065 and 2007 c 413 s 5 are each amended to read as follows:

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

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a

subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

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

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

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

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

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

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

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

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

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

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

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, ((and the child was initially placed with a relative pursuant to RCW 13.34.060(1),)) the court shall order ((continued)) placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

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

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

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

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

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

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the agency case plan and compliance with court

orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

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

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

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

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

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

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

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

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

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

Sec. 3. RCW 13.34.136 and 2007 c 413 s 7 are each amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than

fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the 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. 4. RCW 26.44.063 and 2000 c 119 s 12 are each amended to read as follows:

(1) It is the intent of the legislature to minimize trauma to a child involved in an allegation of sexual or physical abuse. The legislature declares that removing the child from the home or the care of a parent, guardian, or legal custodian often has the effect of further traumatizing the child. It is, therefore, the legislature's intent that the alleged ((offender)) abuser, rather than the child, shall be removed or restrained from the ((home)) child's residence and that this should be done at the earliest possible point of intervention in accordance with RCW 10.31.100, ((13.34.130)) chapter 13.34 RCW, this section, and RCW 26.44.130.

(2) In any judicial proceeding in which it is alleged that a child has been subjected to sexual or physical abuse, if the court finds reasonable grounds to believe that an incident of sexual or physical abuse has occurred, the court may, on its own motion, or the motion of the guardian ad litem or other parties, issue a temporary restraining

order or preliminary injunction restraining or enjoining the person accused of committing the abuse from:

(a) Molesting or disturbing the peace of the alleged victim;

(b) Entering the family home of the alleged victim except as specifically authorized by the court;

(c) Having any contact with the alleged victim, except as specifically authorized by the court;

(d) Knowingly coming within, or knowingly remaining within, a specified distance of a specified location.

(3) If the caretaker is willing, and does comply with the duties prescribed in subsection (8) of this section, uncertainty by the caretaker that the alleged abuser has in fact abused the alleged victim shall not, alone, be a basis to remove the alleged victim from the caretaker, nor shall it be considered neglect.

(4) In issuing a temporary restraining order or preliminary injunction, the court may impose any additional restrictions that the court in its discretion determines are necessary to protect the child from further abuse or emotional trauma pending final resolution of the abuse allegations.

((4)) (5) The court shall issue a temporary restraining order prohibiting a person from entering the family home if the court finds that the order would eliminate the need for an out-of-home placement to protect the child's right to nurturance, health, and safety and is sufficient to protect the child from further sexual or physical abuse or coercion.

((5)) (6) The court may issue a temporary restraining order without requiring notice to the party to be restrained or other parties only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

((6)) (7) A temporary restraining order or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding; and

(b) May be revoked or modified.

((7)) (8) The person having physical custody of the child shall have an affirmative duty to assist in the enforcement of the restraining order including but not limited to a duty to notify the court as soon as practicable of any violation of the order, a duty to request the assistance of law enforcement officers to enforce the order, and a duty to notify the department of social and health services of any violation of the order as soon as practicable if the department is a party to the action. Failure by the custodial party to discharge these affirmative duties shall be subject to contempt proceedings.

((8)) (9) Willful violation of a court order entered under this section is a misdemeanor. A written order shall contain the court's directive and shall bear the legend: "Violation of this order with actual notice of its terms is a criminal offense under chapter 26.44 RCW, is also subject to contempt proceedings, and will subject a violator to arrest."

((9)) (10) If a restraining order issued under this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

Sec. 5. RCW 71.24.035 and 2007 c 414 s 2, 2007 c 410 s 8, and 2007 c 375 s 12 are each reenacted and amended to read as follows:

(1) The department is designated as the state mental health authority.

(2) The secretary shall provide for public, client, and licensed service provider participation in developing the state mental health program, developing contracts with regional support networks, and any waiver request to the federal government under medicaid.

(3) The secretary shall provide for participation in developing the state mental health program for children and other underserved populations, by including representatives on any committee established to provide oversight to the state mental health program.

(4) The secretary shall be designated as the regional support network if the regional support network fails to meet state minimum standards or refuses to exercise responsibilities under RCW 71.24.045.

(5) The secretary shall:

(a) Develop a biennial state mental health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for adults and children with mental illness. The secretary shall also develop a six-year state mental health plan;

(b) Assure that any regional or county community mental health program provides access to treatment for the region's residents, including parents who are ((defendants)) respondents in dependency cases, in the following order of priority: (i) Persons with acute mental illness; (ii) adults with chronic mental illness and children who are severely emotionally disturbed; and (iii) persons who are seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for persons with mental illness which includes training in basic living and social skills, supported work, vocational rehabilitation, and day activities. Such services may include therapeutic treatment. In the case of a child, day treatment includes age-appropriate basic living and social skills, educational and prevocational services, day activities, and therapeutic treatment;

(D) Screening for patients being considered for admission to state mental health facilities to determine the appropriateness of admission;

(E) Employment services, which may include supported employment, transitional work, placement in competitive employment, and other work-related services, that result in persons with mental illness becoming engaged in meaningful and gainful full or part-time work. Other sources of funding such as the division of vocational rehabilitation may be utilized by the secretary to maximize federal funding and provide for integration of services;

(F) Consultation and education services; and

(G) Community support services;

(c) Develop and adopt rules establishing state minimum standards for the delivery of mental health services pursuant to RCW 71.24.037 including, but not limited to:

(i) Licensed service providers. These rules shall permit a county-operated mental health program to be licensed as a service provider subject to compliance with applicable statutes and rules. The secretary shall provide for deeming of compliance with state minimum standards for those entities accredited by recognized behavioral health accrediting bodies recognized and having a current agreement with the department;

(ii) Regional support networks; and

(iii) Inpatient services, evaluation and treatment services and facilities under chapter 71.05 RCW, resource management services, and community support services;

(d) Assure that the special needs of persons who are minorities, elderly, disabled, children, low-income, and parents who are

((defendants)) respondents in dependency cases are met within the priorities established in this section;

(e) Establish a standard contract or contracts, consistent with state minimum standards and RCW 71.24.320((,)) and 71.24.330((, and 71.24.3201)), which shall be used in contracting with regional support networks. The standard contract shall include a maximum fund balance, which shall be consistent with that required by federal regulations or waiver stipulations;

(f) Establish, to the extent possible, a standardized auditing procedure which minimizes paperwork requirements of regional support networks and licensed service providers. The audit procedure shall focus on the outcomes of service and not the processes for accomplishing them;

(g) Develop and maintain an information system to be used by the state and regional support networks that includes a tracking method which allows the department and regional support networks to identify mental health clients' participation in any mental health service or public program on an immediate basis. The information system shall not include individual patient's case history files. Confidentiality of client information and records shall be maintained as provided in this chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

(h) License service providers who meet state minimum standards;

(i) Certify regional support networks that meet state minimum standards;

(j) Periodically monitor the compliance of certified regional support networks and their network of licensed service providers for compliance with the contract between the department, the regional support network, and federal and state rules at reasonable times and in a reasonable manner;

(k) Fix fees to be paid by evaluation and treatment centers to the secretary for the required inspections;

(l) Monitor and audit regional support networks and licensed service providers as needed to assure compliance with contractual agreements authorized by this chapter;

(m) Adopt such rules as are necessary to implement the department's responsibilities under this chapter;

(n) Assure the availability of an appropriate amount, as determined by the legislature in the operating budget by amounts appropriated for this specific purpose, of community-based, geographically distributed residential services;

(o) Certify crisis stabilization units that meet state minimum standards; and

(p) Certify clubhouses that meet state minimum standards.

(6) The secretary shall use available resources only for regional support networks, except to the extent authorized, and in accordance with any priorities or conditions specified, in the biennial appropriations act.

(7) Each certified regional support network and licensed service provider shall file with the secretary, on request, such data, statistics, schedules, and information as the secretary reasonably requires. A certified regional support network or licensed service provider which, without good cause, fails to furnish any data, statistics, schedules, or information as requested, or files fraudulent reports thereof, may have its certification or license revoked or suspended.

(8) The secretary may suspend, revoke, limit, or restrict a certification or license, or refuse to grant a certification or license for failure to conform to: (a) The law; (b) applicable rules and regulations; (c) applicable standards; or (d) state minimum standards.

(9) The superior court may restrain any regional support network or service provider from operating without certification or a license

or any other violation of this section. The court may also review, pursuant to procedures contained in chapter 34.05 RCW, any denial, suspension, limitation, restriction, or revocation of certification or license, and grant other relief required to enforce the provisions of this chapter.

(10) Upon petition by the secretary, and after hearing held upon reasonable notice to the facility, the superior court may issue a warrant to an officer or employee of the secretary authorizing him or her to enter at reasonable times, and examine the records, books, and accounts of any regional support network or service provider refusing to consent to inspection or examination by the authority.

(11) Notwithstanding the existence or pursuit of any other remedy, the secretary may file an action for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, or operation of a regional support network or service provider without certification or a license under this chapter.

(12) The standards for certification of evaluation and treatment facilities shall include standards relating to maintenance of good physical and mental health and other services to be afforded persons pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall otherwise assure the effectuation of the purposes of these chapters.

(13) The standards for certification of crisis stabilization units shall include standards that:

(a) Permit location of the units at a jail facility if the unit is physically separate from the general population of the jail;

(b) Require administration of the unit by mental health professionals who direct the stabilization and rehabilitation efforts; and

(c) Provide an environment affording security appropriate with the alleged criminal behavior and necessary to protect the public safety.

(14) The standards for certification of a clubhouse shall at a minimum include:

(a) The facilities may be peer-operated and must be recovery-focused;

(b) Members and employees must work together;

(c) Members must have the opportunity to participate in all the work of the clubhouse, including administration, research, intake and orientation, outreach, hiring, training and evaluation of staff, public relations, advocacy, and evaluation of clubhouse effectiveness;

(d) Members and staff and ultimately the clubhouse director must be responsible for the operation of the clubhouse, central to this responsibility is the engagement of members and staff in all aspects of clubhouse operations;

(e) Clubhouse programs must be comprised of structured activities including but not limited to social skills training, vocational rehabilitation, employment training and job placement, and community resource development;

(f) Clubhouse programs must provide in-house educational programs that significantly utilize the teaching and tutoring skills of members and assist members by helping them to take advantage of adult education opportunities in the community;

(g) Clubhouse programs must focus on strengths, talents, and abilities of its members;

(h) The work-ordered day may not include medication clinics, day treatment, or other therapy programs within the clubhouse.

(15) The department shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(16) The secretary shall assume all duties assigned to the nonparticipating regional support networks under chapters 71.05, 71.34, and 71.24 RCW. Such responsibilities shall include those which would have been assigned to the nonparticipating counties in regions where there are not participating regional support networks.

The regional support networks, or the secretary's assumption of all responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be included in all state and federal plans affecting the state mental health program including at least those required by this chapter, the medicaid program, and P.L. 99-660. Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(17) The secretary shall:

(a) Disburse funds for the regional support networks within sixty days of approval of the biennial contract. The department must either approve or reject the biennial contract within sixty days of receipt.

(b) Enter into biennial contracts with regional support networks. The contracts shall be consistent with available resources. No contract shall be approved that does not include progress toward meeting the goals of this chapter by taking responsibility for: (i) Short-term commitments; (ii) residential care; and (iii) emergency response systems.

(c) Notify regional support networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

(d) Deny all or part of the funding allocations to regional support networks based solely upon formal findings of noncompliance with the terms of the regional support network's contract with the department. Regional support networks disputing the decision of the secretary to withhold funding allocations are limited to the remedies provided in the department's contracts with the regional support networks.

(18) The department, in cooperation with the state congressional delegation, shall actively seek waivers of federal requirements and such modifications of federal regulations as are necessary to allow federal medicaid reimbursement for services provided by free-standing evaluation and treatment facilities certified under chapter 71.05 RCW. The department shall periodically report its efforts to the appropriate committees of the senate and the house of representatives.

Sec. 6. RCW 74.13.031 and 2007 c 413 s 10 are each amended to read as follows:

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

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

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

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

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

(5) ((Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature)) Monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. The policy for monitoring placements under this section shall require that children in out-of-home care and in-home dependencies and their caregivers receive a private and individual face-to-face visit each month.

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

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

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

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

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

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

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

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

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

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

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

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

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

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

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

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

services for the protection of children. Consultation shall occur at the regional and statewide levels.

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

(1) For the purpose of assisting foster youth in obtaining a Washington state identicard, submission of the information and materials listed in this subsection from the department to the department of licensing is sufficient proof of identity and residency and shall serve as the necessary authorization for the youth to apply for and obtain a Washington state identicard:

(a) A written signed statement prepared on department letterhead, verifying the following:

(i) The youth is a minor who resides in Washington;

(ii) Pursuant to a court order, the youth is dependent and the department or other supervising agency is the legal custodian of the youth under chapter 13.34 RCW or under the interstate compact on the placement of children;

(iii) The youth's full name and date of birth;

(iv) The youth's social security number, if available;

(v) A brief physical description of the youth;

(vi) The appropriate address to be listed on the youth's identicard; and

(vii) Contact information for the appropriate person at the department.

(b) A photograph of the youth, which may be digitized and integrated into the statement.

(2) The department may provide the statement and the photograph via any of the following methods, whichever is most efficient or convenient:

(a) Delivered via first-class mail or electronically to the headquarters office of the department of licensing; or

(b) Hand-delivered to a local office of the department of licensing by a department case worker.

(3) A copy of the statement shall be provided to the youth who shall provide the copy to the department of licensing when making an in-person application for a Washington state identicard.

(4) To the extent other identifying information is readily available, the department shall include the additional information with the submission of information required under subsection (1) of this section.

Sec. 8. RCW 46.20.035 and 2004 c 249 s 2 are each amended to read as follows:

The department may not issue an identicard or a Washington state driver's license that is valid for identification purposes unless the applicant meets the identification requirements of subsection (1), (2), or (3) of this section.

(1) A driver's license or identicard applicant must provide the department with at least one of the following pieces of valid identifying documentation that contains the signature and a photograph of the applicant:

(a) A valid or recently expired driver's license or instruction permit that includes the date of birth of the applicant;

(b) A Washington state identicard or an identification card issued by another state;

(c) An identification card issued by the United States, a state, or an agency of either the United States or a state, of a kind commonly used to identify the members or employees of the government agency;

(d) A military identification card;

(e) A United States passport; or

(f) An Immigration and Naturalization Service form.

(2) An applicant who is a minor may establish identity by providing an affidavit of the applicant's parent or guardian. The parent or guardian must accompany the minor and display or provide:

(a) At least one piece of documentation in subsection (1) of this section establishing the identity of the parent or guardian; and

(b) Additional documentation establishing the relationship between the parent or guardian and the applicant.

(3) A person unable to provide identifying documentation as specified in subsection (1) or (2) of this section may request that the department review other available documentation in order to ascertain identity. The department may waive the requirement if it finds that other documentation clearly establishes the identity of the applicant. Notwithstanding the requirements in subsection (2) of this section, the department shall issue an identicard to an applicant for whom it receives documentation pursuant to section 7 of this act.

(4) An identicard or a driver's license that includes a photograph that has been renewed by mail or by electronic commerce is valid for identification purposes if the applicant met the identification requirements of subsection (1), (2), or (3) of this section at the time of previous issuance.

(5) The form of an applicant's name, as established under this section, is the person's name of record for the purposes of this chapter.

(6) If the applicant is unable to prove his or her identity under this section, the department shall plainly label the license "not valid for identification purposes."

Sec. 9. RCW 41.06.142 and 2002 c 354 s 208 are each amended to read as follows:

(1) Any department, agency, or institution of higher education may purchase services, including services that have been customarily and historically provided by employees in the classified service under this chapter, by contracting with individuals, nonprofit organizations, businesses, employee business units, or other entities if the following criteria are met:

(a) The invitation for bid or request for proposal contains measurable standards for the performance of the contract;

(b) Employees in the classified service whose positions or work would be displaced by the contract are provided an opportunity to offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures in subsection (4) of this section;

(c) The contract with an entity other than an employee business unit includes a provision requiring the entity to consider employment of state employees who may be displaced by the contract;

(d) The department, agency, or institution of higher education has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards; and

(e) The department, agency, or institution of higher education has determined that the contract results in savings or efficiency improvements. The contracting agency must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(2) Any provision contrary to or in conflict with this section in any collective bargaining agreement in effect on July 1, 2005, is not effective beyond the expiration date of the agreement.

(3) Contracting for services that is expressly mandated by the legislature or was authorized by law prior to July 1, 2005, including contracts and agreements between public entities, shall not be subject

to the processes set forth in subsections (1) ((and)), (4) ((through (6))), and (5) of this section.

(4) Competitive contracting shall be implemented as follows:

(a) At least ninety days prior to the date the contracting agency requests bids from private entities for a contract for services provided by classified employees, the contracting agency shall notify the classified employees whose positions or work would be displaced by the contract. The employees shall have sixty days from the date of notification to offer alternatives to purchasing services by contract, and the agency shall consider the alternatives before requesting bids.

(b) If the employees decide to compete for the contract, they shall notify the contracting agency of their decision. Employees must form one or more employee business units for the purpose of submitting a bid or bids to perform the services.

(c) The director of personnel with the advice and assistance of the department of general administration, shall develop and make available to employee business units training in the bidding process and general bid preparation.

(d) The director of general administration with the advice and assistance of the department of personnel, shall, by rule, establish procedures to ensure that bids are submitted and evaluated in a fair and objective manner and that there exists a competitive market for the service. Such rules shall include, but not be limited to: (i) Prohibitions against participation in the bid evaluation process by employees who prepared the business unit's bid or who perform any of the services to be contracted; (ii) provisions to ensure no bidder receives an advantage over other bidders and that bid requirements are applied equitably to all parties; and (iii) procedures that require the contracting agency to receive complaints regarding the bidding process and to consider them before awarding the contract. Appeal of an agency's actions under this subsection is an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act with the final decision to be rendered by an administrative law judge assigned under chapter 34.12 RCW.

(e) An employee business unit's bid must include the fully allocated costs of the service, including the cost of the employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. An employee business unit's cost shall not include the state's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service.

(f) A department, agency, or institution of higher education may contract with the department of general administration to conduct the bidding process.

(5) As used in this section:

(a) "Employee business unit" means a group of employees who perform services to be contracted under this section and who submit a bid for the performance of those services under subsection (4) of this section.

(b) "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

(c) "Competitive contracting" means the process by which classified employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts authorized by subsection (1) of this section.

(6) ((The joint legislative audit and review committee shall conduct a performance audit of the implementation of this section, including the adequacy of the appeals process in subsection (4)(d) of

this section, and report to the legislature by January 1, 2007, on the results of the audit.) The requirements of this section do not apply to RCW 74.13.031(5).

NEW SECTION. Sec. 10. A new section is added to chapter 74.15 RCW to read as follows:

To be eligible for placement in a HOPE center, a minor must be either a street youth, as that term is defined in this chapter, or a youth who, without placement in a HOPE center, will continue to participate in increasingly risky behavior. Youth may also self-refer to a HOPE center. Payment for a HOPE center bed is not contingent upon prior approval by the department.

Sec. 11. RCW 74.15.240 and 1999 c 267 s 14 are each amended to read as follows:

To be eligible for placement in a responsible living skills program, the minor must be dependent under chapter 13.34 RCW and must have lived in a HOPE center or in a secure crisis residential center. However, if the minor's caseworker determines that placement in a responsible living skills program would be the most appropriate placement given the minor's current circumstances, prior residence in a HOPE center or secure crisis residential center before placement in a responsible living program is not required. Responsible living skills centers are intended as a placement alternative for dependent youth that the department chooses for the youth because no other services or alternative placements have been successful. Responsible living skills centers are not for dependent youth whose permanency plan includes return to home or family reunification.

NEW SECTION. Sec. 12. (1) The department of social and health services, in collaboration with the administrative office of the courts, shall implement a pilot program in the Thurston, Spokane, King, and Benton-Franklin counties as follows:

(a) A child who is age twelve years or older and who is the subject of a dependency proceeding under chapter 13.34 RCW shall have the following rights with respect to all hearings conducted in the pilot county on his or her behalf:

- (i) The right to receive notice of the proceedings and hearings;
- (ii) The right to be present at hearings; and
- (iii) The right to be heard personally.

(b) At the request of the child, the child's guardian ad litem or attorney, or upon the court's own motion, the court may conduct an interview with the child in chambers to determine the child's wishes regarding the issues pending before the court. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to be made part of the record in the case.

(c) A child's right to attend a hearing conducted on his or her behalf and to be heard by the court cannot be denied or limited by the court, unless the court makes a specific written finding that such denial or limitation is in the best interests of the child and necessary for the health, safety, and welfare of the child.

(d) Prior to each hearing, the child's guardian ad litem or attorney shall determine if the child wishes to be present and to be heard at the hearing. If the child wishes to attend the hearing, the guardian ad litem or attorney shall coordinate with the child's caregiver and the department or supervising agency to make arrangements for the child to attend the hearing. Nothing in this subsection shall be construed to create a duty on the department or supervising agency to transport the child.

(2) The pilot shall operate until June 30, 2010. The department of social and health services and the administrative office of the

courts shall brief the legislature regarding the pilot by January 31, 2009, and shall provide a final report regarding the effectiveness of the program by December 1, 2010. To the extent funding is available, the department and the administrative office of the courts shall collaborate with other appropriate entities to compile pertinent information regarding the pilot program, including the comments of youth, court personnel, attorneys, and guardians ad litem in the pilot counties.

Sec. 13. RCW 13.34.105 and 2000 c 124 s 4 are each amended to read as follows:

(1) Unless otherwise directed by the court, the duties of the guardian ad litem for a child subject to a proceeding under this chapter, including an attorney specifically appointed by the court to serve as a guardian ad litem, include but are not limited to the following:

(a) To investigate, collect relevant information about the child's situation, and report to the court factual information regarding the best interests of the child;

(b) To meet with, interview, or observe the child, depending on the child's age and developmental status, and report to the court any views or positions expressed by the child on issues pending before the court;

(c) To monitor all court orders for compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order;

((c)) (d) To report to the court information on the legal status of a child's membership in any Indian tribe or band;

((d)) (e) Court-appointed special advocates and guardians ad litem may make recommendations based upon an independent investigation regarding the best interests of the child, which the court may consider and weigh in conjunction with the recommendations of all of the parties; and

((e)) (f) To represent and be an advocate for the best interests of the child.

(2) A guardian ad litem shall be deemed an officer of the court for the purpose of immunity from civil liability.

(3) Except for information or records specified in RCW 13.50.100((5)) (7), the guardian ad litem shall have access to all information available to the state or agency on the case. Upon presentation of the order of appointment by the guardian ad litem, any agency, hospital, school organization, division or department of the state, doctor, nurse, or other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the guardian ad litem to inspect and copy any records relating to the child or children involved in the case, without the consent of the parent or guardian of the child, or of the child if the child is under the age of thirteen years, unless such access is otherwise specifically prohibited by law.

(4) A guardian ad litem may release confidential information, records, and reports to the office of the family and children's ombudsman for the purposes of carrying out its duties under chapter 43.06A RCW.

(5) The guardian ad litem shall release case information in accordance with the provisions of RCW 13.50.100.

NEW SECTION. Sec. 14. Section 6 of this act takes effect December 31, 2008.

NEW SECTION. Sec. 15. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not

provided by June 30, 2008, in the omnibus appropriations act, this act is null and void."

Correct the title.

Representative Kagi spoke in favor of the adoption of the amendment.

The amendment was adopted.

There being no objection, the rules were suspended, the second reading considered the third, and the bill, as amended by the House, was placed on final passage.

The Speaker (Representative Morris presiding) stated the question before the House to be the final passage of Engrossed Substitute Senate Bill No. 6792, as amended by the House.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute Senate Bill No. 6792, as amended by the House, and the bill passed the House by the following vote: Yeas - 97, Nays - 0, Absent - 0, Excused - 1.

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, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams, Wood and Mr. Speaker - 97.

Excused: Representative Hailey - 1.

ENGROSSED SUBSTITUTE SENATE BILL NO. 6792, as amended by the House, having received the necessary constitutional majority, was declared passed.

RESOLUTION

HOUSE RESOLUTION NO. 4711, By Representatives Chopp, DeBolt, Ahern, Alexander, Anderson, Appleton, Armstrong, Bailey, Barlow, Blake, Campbell, Chandler, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, Ericks, Ericksen, Flannigan, Fromhold, Goodman, Grant, Green, Haigh, Hailey, 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, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Smith, Sommers, Springer, Sullivan, Sump, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Warnick, Williams and Wood

WHEREAS, It is the policy of the Washington state legislature to recognize excellence in all fields of endeavor; and

WHEREAS, Lynn Schindler has exhibited true excellence during her tenure as state representative for the citizens of the 4th legislative district, which includes Spokane Valley, the most northeastern part of Spokane County and east to the Idaho border; and

WHEREAS, Lynn Schindler was born and raised in Milwaukee, Wisconsin, and has lived in Spokane for 33 years; and

WHEREAS, Lynn Schindler and her husband of 40 years, Jim, are the proud parents of 10 children and 9 grandchildren; and

WHEREAS, Lynn Schindler is a graduate of Marquette University of Minnesota, and after graduation was a talk show host and weather reporter; and

WHEREAS, Lynn Schindler and her husband, Jim, manage commercial and investment properties; and

WHEREAS, Lynn Schindler has been committed to helping families, improving Washington's transportation system, and building a strong economy to create jobs; and

WHEREAS, Lynn Schindler has served as state representative from the 4th legislative district from 1999-2008, as minority whip 2007-08, vice-chair of the house education committee from 1999-2000, vice-chair of the state government committee in 2001, and ranking member of the local government committee from 2003-06; and

WHEREAS, Lynn Schindler is respected for her Christian faith and her sincerity, honesty, kindness, and friendship;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives of the state of Washington honor Lynn Schindler for her years of dedicated service, her personal and professional integrity, and her faithfulness to the principles and ideals that she worked so diligently for on behalf of the citizens of this state; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Chief Clerk of the House of Representatives to Lynn Schindler.

Representative Ericksen moved the adoption of the resolution.

Representatives Ericksen, Simpson, Crouse, Wood, Flannigan and DeBolt spoke in favor of the adoption of the resolution.

HOUSE RESOLUTION NO. 4711 was adopted.

SECOND READING

SENATE BILL NO. 6657, By Senators Murray, Fraser and Rasmussen; by request of Select Committee on Pension Policy

Including salary bonuses for individuals certified by the national board for professional teaching standards as earnable compensation.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Conway and Hunter spoke in favor of passage of the bill.

Representative 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 Senate Bill No. 6657.

ROLL CALL

The Clerk called the roll on the final passage of Senate Bill No. 6657 and the bill passed the House by the following vote: Yeas - 85, Nays - 12, Absent - 0, Excused - 1.

Voting yea: Representatives Anderson, Appleton, Armstrong, Barlow, Blake, Campbell, Chase, Clibborn, Cody, Condotta, Conway, Crouse, Darneille, Dickerson, Dunn, Dunshee, Eddy, Eickmeyer, 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, O'Brien, Ormsby, Pearson, Pedersen, Pettigrew, Priest, Quall, Roach, Roberts, Rodne, Rolfes, Ross, Santos, Schmick, Schual-Berke, Seaquist, Sells, Simpson, Skinner, Smith, Sommers, Springer, Sullivan, Takko, Upthegrove, Van De Wege, Wallace, Walsh, Williams, Wood and Mr. Speaker - 85.

Voting nay: Representatives Ahern, Alexander, Bailey, Chandler, DeBolt, Ericksen, Kretz, Newhouse, Orcutt, Schindler, Sump and Warnick - 12.

Excused: Representative Hailey - 1.

SENATE BILL NO. 6657, having received the necessary constitutional majority, was declared passed.

STATEMENT FOR THE JOURNAL

I intended to vote YEA on Senate Bill No. 6657.

JOHN AHERN, 6th District

MESSAGES FROM THE SENATE

March 12, 2008

Mr. Speaker:

The Senate concurred in the House amendments to the following bills and passed the bills as amended by the House:
SECOND SUBSTITUTE SENATE BILL NO. 5596,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5831,
SENATE BILL NO. 6332,
ENGROSSED SUBSTITUTE SENATE BILL NO. 6665,
SUBSTITUTE SENATE BILL NO. 6851,
SECOND SUBSTITUTE SENATE BILL NO. 6855,
and the same are herewith transmitted.

Thomas Hoemann, Secretary

March 12, 2008

Mr. Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 3303, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

March 12, 2008

Mr. Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 3381, and the same is herewith transmitted.

Brad Hendrickson, Deputy Secretary

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

There being no objection, the House adjourned until 9:00 AM, March 15, 2008, the 60th Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

