

**EIGHTY-EIGHTH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Thursday, April 5, 2007

The Senate was called to order at 9:00 a.m. by President Pro Tempore. The Secretary called the roll and announced to the President Pro Tempore that all Senators were present with the exception of Senators Berkey, Brown, Carrell, Fairley, Pflug, Rasmussen, Shin and Swecker.

The Sergeant at Arms Color Guard consisting of Pages Jeffrey Ladderud and Elaine Whaley, presented the Colors. Senator Fraser offered the prayer.

**MOTION**

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

**MOTION**

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

**MESSAGE FROM THE GOVERNOR  
GUBERNATORIAL APPOINTMENTS**

March 20, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

CHARLOTTE PARSLEY, appointed March 16, 2007, for the term ending July 1, 2011, as Member, Board of Trustees, State School for the Deaf.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Early Learning & K-12 Education.

March 20, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

LYNDA J. RING ERICKSON, appointed March 16, 2007, for the term ending August 2, 2009, as Member of the Sentencing Guidelines Commission.

Sincerely,

CHRISTINE O. GREGOIRE, Governor

Referred to Committee on Judiciary.

**MOTION**

On motion of Senator Eide, all appointees listed on the Gubernatorial Appointments report were referred to the committees as designated.

**MOTION**

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

**MESSAGE FROM THE HOUSE**

April 4, 2007

MR. PRESIDENT:

The House has passed the following bills:  
ENGROSSED SENATE BILL NO. 5251,  
SENATE BILL NO. 5313,  
SUBSTITUTE SENATE BILL NO. 5443,  
SENATE BILL NO. 5732,  
SUBSTITUTE SENATE BILL NO. 5839,  
SUBSTITUTE SENATE BILL NO. 5895,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5920,  
ENGROSSED SENATE BILL NO. 6018,  
SENATE BILL NO. 6059,  
SENATE BILL NO. 6075,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 4, 2007

MR. PRESIDENT:

The House has passed the following bills:  
SUBSTITUTE SENATE BILL NO. 5461,  
SUBSTITUTE SENATE BILL NO. 5463,  
SENATE BILL NO. 5468,  
SUBSTITUTE SENATE BILL NO. 5511,  
SENATE BILL NO. 5607,  
SENATE BILL NO. 5711,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 4, 2007

MR. PRESIDENT:

The House has passed the following bills:  
SENATE BILL NO. 5640,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5827,  
SUBSTITUTE SENATE BILL NO. 5910,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

**MESSAGE FROM THE HOUSE**

April 4, 2007

MR. PRESIDENT:

The House has passed the following bills:  
SUBSTITUTE HOUSE BILL NO. 2380,  
SUBSTITUTE SENATE BILL NO. 5039,  
SENATE BILL NO. 5042,  
SUBSTITUTE SENATE BILL NO. 5052,  
SUBSTITUTE SENATE BILL NO. 5228,  
SENATE BILL NO. 5247,  
ENGROSSED SUBSTITUTE SENATE BILL NO. 5292,  
SENATE BILL NO. 5389,  
SUBSTITUTE SENATE BILL NO. 5391,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

**MOTION**

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

EIGHTY-EIGHTH DAY, APRIL 5, 2007  
SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

2007 REGULAR SESSION

MOTION

Senator Tom moved that Gubernatorial Appointment No. 9040, Steve S. Miller, as a member of the Board of Trustees, Bellevue Community College District No. 8, be confirmed.  
Senator Tom spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senators Berkey, Brown, Fairley and Poulsen were excused.

MOTION

On motion of Senator Brandland, Senators Carrell, Pflug, Roach and Swecker were excused.

APPOINTMENT OF STEVE S. MILLER

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9040, Steve S. Miller as a member of the Board of Trustees, Bellevue Community College District No. 8.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9040, Steve S. Miller as a member of the Board of Trustees, Bellevue Community College District No. 8 and the appointment was confirmed by the following vote: Yeas, 41; Nays, 0; Absent, 2; Excused, 6.

Voting yea: Senators Benton, Brandland, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Spanel, Stevens, Tom, Weinstein and Zarelli - 41

Absent: Senators Rasmussen and Shin - 2

Excused: Senators Berkey, Brown, Carrell, Fairley, Pflug and Swecker - 6

Gubernatorial Appointment No. 9040, Steve S. Miller, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Bellevue Community College District No. 8.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9121, Lynn Gooding, as Director of the Pollution Liability Insurance Program, be confirmed.

Senator Rockefeller spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senators Kastama, Kauffman, Murray and Rasmussen were excused.

APPOINTMENT OF LYNN GOODING

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9121, Lynn Gooding as Director of the Pollution Liability Insurance Program.

The Secretary called the roll on the confirmation of

Gubernatorial Appointment No. 9121, Lynn Gooding as Director of the Pollution Liability Insurance Program and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Benton, Brandland, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Oemig, Parlette, Poulsen, Prentice, Pridemore, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 40

Excused: Senators Berkey, Brown, Fairley, Kastama, Kauffman, Murray, Pflug, Rasmussen and Swecker - 9

Gubernatorial Appointment No. 9121, Lynn Gooding, having received the constitutional majority was declared confirmed as Director of the Pollution Liability Insurance Program.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9238, Bill Ruckelshaus, as Chair of the Salmon Recovery Funding Board, be confirmed.

Senators Rockefeller, Jacobsen and Parlette spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Haugen was excused.

APPOINTMENT OF BILL RUCKELSHAUS

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9238, Bill Ruckelshaus as Chair of the Salmon Recovery Funding Board.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9238, Bill Ruckelshaus as Chair of the Salmon Recovery Funding Board and the appointment was confirmed by the following vote: Yeas, 40; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Senators Benton, Brandland, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 40

Excused: Senators Berkey, Brown, Fairley, Haugen, Kastama, Kauffman, Murray, Pflug and Swecker - 9

Gubernatorial Appointment No. 9238, Bill Ruckelshaus, having received the constitutional majority was declared confirmed as Chair of the Salmon Recovery Funding Board.

MOTION

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

MOTION

Senator Rasmussen moved adoption of the following resolution:

SENATE RESOLUTION

EIGHTY-EIGHTH DAY, APRIL 5, 2007  
8681

2007 REGULAR SESSION

By Senators Rasmussen, Regala, Roach, Fraser, Pflug, Prentice, McAuliffe, Spanel, Murray, Jacobsen, Shin, Franklin, Parlette, Clements, Hewitt, Hargrove, Fairley, Holmquist, Brown, Weinstein, Berkey, Tom, Eide, Schoesler, Poulsen, Stevens, Delvin, Swecker, Haugen, Carrell, Benton, Kastama, Kline, Morton, Oemig, Hatfield, McCaslin, Zarelli, Kilmer, Kauffman, Rockefeller, Kohl-Welles, Pridemore and Honeyford

WHEREAS, Autism is a developmental disability that typically appears during the first two years of life and continues through the individual's lifespan; and

WHEREAS, Autism is the fastest-growing developmental disability, affecting 1 million to 1.5 million Americans - 1 in 150 babies born; and

WHEREAS, Many children are not diagnosed until after 3 years of age, often because of lack of recognition of autism characteristics by general practitioners; and

WHEREAS, There are many different characteristics in individuals with autism - delayed or deficient communication, decreased or unresponsive social interaction, unusual reaction to normal stimuli, a lack of spontaneous or imaginative play, and behavioral challenges; and

WHEREAS, There is no known cause and no known cure, however with aggressive and continuous therapy, some individuals can learn to acclimate to their environment and mask symptoms of their disability; and

WHEREAS, All individuals with autism should be included and regarded as valuable members of our community; and

WHEREAS, Autism can create significant stress on the families of those affected by autism; and

WHEREAS, Families, caregivers, advocates, and organizations are striving to bring about positive changes for children and adults with autism; and

WHEREAS, Through research, training, public services, support groups, advocacy, and increased awareness, we will be more understanding, inclusive, and better-equipped to support the growing number of individuals with autism and their families;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor and support individuals with autism and acknowledge the tremendous courage that they and their families put forth every day; and

BE IT FURTHER RESOLVED, That a copy of this resolution be immediately transmitted by the Secretary of the Senate to the Honorable Christine Gregoire.

Senators Rasmussen, Prentice, Brandland, Roach, Jacobsen and Delvin spoke in favor of adoption of the resolution.

The President Pro Tempore declared the question before the Senate to be the adoption of Senate Resolution No. 8681.

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

#### MOTION

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

#### SECOND READING

HOUSE BILL NO. 1145, by Representatives Lantz, Warnick, Williams, Rodne, O'Brien, Campbell, Goodman and Moeller

Modifying the definition of an "account receivable" for purposes of commencing an action.

The measure was read the second time.

#### MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1145 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1145.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1145 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Berkey, Fairley and Pflug - 3

HOUSE BILL NO. 1145, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1279, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Skinner, Kessler, Lantz, Hasegawa, Dickerson, Haler, McIntire, Conway, Newhouse and Kenney)

Establishing the poet laureate program.

The measure was read the second time.

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 1279 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Clements spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1279.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1279 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

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

Voting nay: Senators Schoesler and Swecker - 2

Excused: Senators Fairley and Pflug - 2

SUBSTITUTE HOUSE BILL NO. 1279, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

EIGHTY-EIGHTH DAY, APRIL 5, 2007  
SECOND READING

2007 REGULAR SESSION

SUBSTITUTE HOUSE BILL NO. 1328, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Santos, Anderson, Green, Hunt, Miloscia, McDermott, Hasegawa, Hudgins, Chandler, Darneille, Haigh, Hankins, Wallace, Kristiansen, Kagi, Pettigrew, Kenney and Conway)

Concerning small works roster contracting procedures.

The measure was read the second time.

#### MOTION

Senator Oemig moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 39.04.155 and 2001 c 284 s 1 are each amended to read as follows:

(1) This section provides uniform small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property that may be used by state agencies and by any local government that is expressly authorized to use these provisions. These provisions may be used in lieu of other procedures to award contracts for such work with an estimated cost of two hundred thousand dollars or less. The small works roster process includes the limited public works process authorized under subsection (3) of this section and any local government authorized to award contracts using the small works roster process under this section may award contracts using the limited public works process under subsection (3) of this section.

(2)(a) A state agency or authorized local government may create a single general small works roster, or may create a small works roster for different specialties or categories of anticipated work. Where applicable, small works rosters may make distinctions between contractors based upon different geographic areas served by the contractor. The small works roster or rosters shall consist of all responsible contractors who have requested to be on the list, and where required by law are properly licensed or registered to perform such work in this state. A state agency or local government establishing a small works roster or rosters may require eligible contractors desiring to be placed on a roster or rosters to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the state agency or local government as a condition of being placed on a roster or rosters. At least once a year, the state agency or local government shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster or rosters. In addition, responsible contractors shall be added to an appropriate roster or rosters at any time they submit a written request and necessary records. Master contracts may be required to be signed that become effective when a specific award is made using a small works roster.

(b) A state agency establishing a small works roster or rosters shall adopt rules implementing this subsection. A local government establishing a small works roster or rosters shall adopt an ordinance or resolution implementing this subsection. Procedures included in rules adopted by the department of general administration in implementing this subsection must be included in any rules providing for a small works roster or rosters that is adopted by another state agency, if the authority for that state agency to engage in these activities has been delegated to it by the department of general administration under chapter 43.19 RCW. An interlocal contract or agreement between two or more state agencies or local governments establishing a small works roster or rosters to be used by the parties to the agreement or contract must clearly identify the

lead entity that is responsible for implementing the provisions of this subsection.

(c) Procedures shall be established for securing telephone, written, or electronic quotations from contractors on the appropriate small works roster to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 43.19.1911. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. However, if the estimated cost of the work is from one hundred thousand dollars to two hundred thousand dollars, a state agency or local government, other than a port district, that chooses to solicit bids from less than all the appropriate contractors on the appropriate small works roster must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The government has the sole option of determining whether this notice to the remaining contractors is made by: (i) Publishing notice in a legal newspaper in general circulation in the area where the work is to be done; (ii) mailing a notice to these contractors; or (iii) sending a notice to these contractors by facsimile or other electronic means. For purposes of this subsection (2)(c), "equitably distribute" means that a state agency or local government soliciting bids may not favor certain contractors on the appropriate small works roster over other contractors on the appropriate small works roster who perform similar services.

(d) A contract awarded from a small works roster under this section need not be advertised.

(e) Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry.

(3) In lieu of awarding contracts under subsection (2) of this section, a state agency or authorized local government may award a contract for work, construction, alteration, repair, or improvement (~~(project [projects])~~) projects estimated to cost less than thirty-five thousand dollars using the limited public works process provided under this subsection. Public works projects awarded under this subsection are exempt from the other requirements of the small works roster process provided under subsection (2) of this section and are exempt from the requirement that contracts be awarded after advertisement as provided under RCW 39.04.010.

For limited public works projects, a state agency or authorized local government shall solicit electronic or written quotations from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder as defined under RCW 43.19.1911. After an award is made, the quotations shall be open to public inspection and available by electronic request. A state agency or authorized local government shall attempt to distribute opportunities for limited public works projects equitably among contractors willing to perform in the geographic area of the work. A state agency or authorized local government shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded. For limited public works projects, a state agency or authorized local government may waive the payment and performance bond requirements of chapter 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby assuming the liability for the contractor's nonpayment of laborers, mechanics,

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

subcontractors, (~~materialmen~~) material persons, suppliers, and taxes imposed under Title 82 RCW that may be due from the contractor for the limited public works project, however the state agency or authorized local government shall have the right of recovery against the contractor for any payments made on the contractor's behalf.

(4) The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be let using the small works roster process or limited public works process.

(5)(a) A state agency or authorized local government may use the limited public works process of subsection (3) of this section to solicit and award small works roster contracts to small businesses that are registered contractors with gross revenues under one million dollars annually as reported on their federal tax return.

(b) A state agency or authorized local government may adopt additional procedures to encourage small businesses that are registered contractors with gross revenues under two hundred fifty thousand dollars annually as reported on their federal tax returns to submit quotations or bids on small works roster contracts.

(6) As used in this section, "state agency" means the department of general administration, the state parks and recreation commission, the department of natural resources, the department of fish and wildlife, the department of transportation, any institution of higher education as defined under RCW 28B.10.016, and any other state agency delegated authority by the department of general administration to engage in construction, building, renovation, remodeling, alteration, improvement, or repair activities.

**Sec. 2.** RCW 60.28.051 and 1992 c 223 s 4 are each amended to read as follows:

Upon completion of a contract, the state, county, or other municipal officer charged with the duty of disbursing or authorizing disbursement or payment of such contracts shall forthwith notify the department of revenue of the completion of contracts over (~~(twenty)~~) thirty-five thousand dollars. Such officer shall not make any payment from the retained percentage fund or release any retained percentage escrow account to any person, until he or she has received from the department of revenue a certificate that all taxes, increases, and penalties due from the contractor, and all taxes due and to become due with respect to such contract have been paid in full or that they are, in the department's opinion, readily collectible without recourse to the state's lien on the retained percentage.

**Sec. 3.** RCW 39.08.010 and 1989 c 145 s 1 are each amended to read as follows:

Whenever any board, council, commission, trustees, or body acting for the state or any county or municipality or any public body shall contract with any person or corporation to do any work for the state, county, or municipality, or other public body, city, town, or district, such board, council, commission, trustees, or body shall require the person or persons with whom such contract is made to make, execute, and deliver to such board, council, commission, trustees, or body a good and sufficient bond, with a surety company as surety, conditioned that such person or persons shall faithfully perform all the provisions of such contract and pay all laborers, mechanics, and subcontractors and materialmen, and all persons who supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work, which bond in cases of cities and towns shall be filed with the clerk or comptroller thereof, and any person or persons performing such services or furnishing material to any subcontractor shall have the same right under the provisions of such bond as if such work, services, or material was furnished to the original contractor: PROVIDED, HOWEVER, That the provisions of RCW 39.08.010 through 39.08.030 shall not apply to any money loaned or advanced to any such contractor, subcontractor or other person in the performance of any such work: PROVIDED FURTHER, That on contracts of (~~(twenty-five)~~) thirty-five thousand dollars or less, at the option of the contractor the respective public entity may, in lieu of the bond, retain fifty

percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later: PROVIDED FURTHER, That for contracts of one hundred thousand dollars or less, the public entity may accept a full payment and performance bond from an individual surety or sureties: AND PROVIDED FURTHER, That the surety must agree to be bound by the laws of the state of Washington and subjected to the jurisdiction of the state of Washington.

**Sec. 4.** RCW 39.12.040 and 1991 c 15 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, before payment is made by or on behalf of the state, or any county, municipality, or political subdivision created by its laws, of any sum or sums due on account of a public works contract, it shall be the duty of the officer or person charged with the custody and disbursement of public funds to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer a "Statement of Intent to Pay Prevailing Wages". For a contract in excess of ten thousand dollars, the statement of intent to pay prevailing wages shall include:

(a) The contractor's registration certificate number; and

(b) The prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020 and the estimated number of workers in each classification.

Each statement of intent to pay prevailing wages must be approved by the industrial statistician of the department of labor and industries before it is submitted to said officer. Unless otherwise authorized by the department of labor and industries, each voucher claim submitted by a contractor for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the prefiled statement or statements of intent to pay prevailing wages on file with the public agency. Following the final acceptance of a public works project, it shall be the duty of the officer charged with the disbursement of public funds, to require the contractor and each and every subcontractor from the contractor or a subcontractor to submit to such officer an "Affidavit of Wages Paid" before the funds retained according to the provisions of RCW 60.28.010 are released to the contractor. Each affidavit of wages paid must be certified by the industrial statistician of the department of labor and industries before it is submitted to said officer.

(2) As an alternate to the procedures provided for in subsection (1) of this section, for public works projects of two thousand five hundred dollars or less and for projects where the limited public works process under RCW 39.04.155(3) is followed:

(a) An awarding agency may authorize the contractor or subcontractor to submit the statement of intent to pay prevailing wages directly to the officer or person charged with the custody or disbursement of public funds in the awarding agency without approval by the industrial statistician of the department of labor and industries. The awarding agency shall retain such statement of intent to pay prevailing wages for a period of not less than three years.

(b) Upon final acceptance of the public works project, the awarding agency shall require the contractor or subcontractor to submit an affidavit of wages paid. Upon receipt of the affidavit of wages paid, the awarding agency may pay the contractor or subcontractor in full, including funds that would otherwise be retained according to the provisions of RCW 60.28.010. Within thirty days of receipt of the affidavit of wages paid, the awarding agency shall submit the affidavit of wages paid to the industrial statistician of the department of labor and industries for approval.

(c) A statement of intent to pay prevailing wages and an affidavit of wages paid shall be on forms approved by the department of labor and industries.

(d) In the event of a wage claim and a finding for the claimant by the department of labor and industries where the awarding agency has used the alternative process provided for in subsection (2) of this section, the awarding agency shall pay the

EIGHTY-EIGHTH DAY, APRIL 5, 2007

wages due directly to the claimant. If the contractor or subcontractor did not pay the wages stated in the affidavit of wages paid, the awarding agency may take action at law to seek reimbursement from the contractor or subcontractor of wages paid to the claimant, and may prohibit the contractor or subcontractor from bidding on any public works contract of the awarding agency for up to one year.

(e) Nothing in this section shall be interpreted to allow an awarding agency to subdivide any public works project of more than two thousand five hundred dollars for the purpose of circumventing the procedures required by RCW 39.12.040(1)."

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Government Operations & Elections to Substitute House Bill No. 1328.

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

#### MOTION

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

On page 1, line 1 of the title, after "procedures;" strike the remainder of the title and insert "and amending RCW 39.04.155, 60.28.051, 39.08.010, and 39.12.040."

#### MOTION

On motion of Senator Oemig, the rules were suspended, Substitute House Bill No. 1328 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Oemig spoke in favor of passage of the bill.

Senator Swecker spoke against passage of the bill.

#### MOTION

On motion of Senator Regala, Senator Hargrove was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1328 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1328 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 43

Voting nay: Senators Clements, Schoesler and Swecker - 3

Excused: Senators Fairley, Hargrove and Pflug - 3

SUBSTITUTE HOUSE BILL NO. 1328 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1280, by House Committee on Capital Budget (originally sponsored by Representatives Ericks, Jarrett, Quall, O'Brien, Strow, Morrell,

2007 REGULAR SESSION

Roach, Hunt, McDonald, Chase, Simpson, Haler, Moeller, McCune, Schual-Berke, Miloscia and Springer)

Providing for the use of the school district capital projects funds for technology.

The measure was read the second time.

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Second Substitute House Bill No. 1280 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Tom spoke in favor of passage of the bill.

Senators Holmquist and Clements spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1280.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1280 and the bill passed the Senate by the following vote: Yeas, 32; Nays, 15; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 32

Voting nay: Senators Carrell, Clements, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 15

Excused: Senators Fairley and Pflug - 2

SECOND SUBSTITUTE HOUSE BILL NO. 1280, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1472, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Pettigrew, Haler, Kagi, P. Sullivan, Walsh, Lovick, Barlow, Kenney, McCoy, Darnelle, Hasegawa, Roberts, Hinkle, Santos, Appleton, Upthegrove, Williams, Moeller, Ormsby, VanDeWege, Schual-Berke and Dickerson)

Analyzing and remedying racial disproportionality and racial disparity in child welfare.

The measure was read the second time.

#### MOTION

Senator Kauffman moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that one in five of Washington's one and one-half million children are children of color. Broken out by racial groups, approximately six percent of children are Asian/Pacific Islander, six percent are multiracial, four and one-half percent are African American, and two percent are Native American. Thirteen percent of Washington children are of Hispanic origin, but representation of this group increases in the lower age ranges. For example,

EIGHTY-EIGHTH DAY, APRIL 5, 2007

seventeen percent of children birth to four years of age are Hispanic.

The legislature also finds that in counties such as Adams, Franklin, Yakima, and Grant, more than half of the births are of Hispanic origin. Three-quarters of the state's African American children and two-thirds of Asian/Pacific Islander children live in King and Pierce counties. The legislature finds further that despite some progress closing the achievement gap in recent years, children of color continue to lag behind their classmates on the Washington assessment of student learning. In 2005 children of color trailed in every category of the fourth-grade reading, writing, and math assessments. On the reading test alone, sixty-nine percent of African American students, sixty-four percent of native American students, and sixty-one percent of Hispanic students met the standards, compared with eighty-five percent of caucasian students. And, since 1993, the number of Washington students for which English is not their first language has doubled to more than seven percent of students statewide.

The legislature finds further that according to national research, African American children enter the child welfare system at far higher rates than caucasian children, despite no greater incidence of maltreatment in African American families compared to caucasian families. This trend holds true for Washington state, where African American children represent approximately nine and one-half percent of the children in out-of-home care even though they represent slightly more than four percent of the state's total child population. Native American children represent slightly over ten percent of the children in out-of-home care although they represent only two percent of the children in the state. In King county, African American and Native American children are over represented at nearly every decision point in the child welfare system. Although these two groups of children represent only eight percent of the child population in King county, they account for one-third of all children removed from their homes and one-half of children in foster care for more than four years.

The legislature finds also that children of immigrants are the fastest growing component of the United States' child population. While immigrants are eleven percent of the nation's total population, the children of immigrants make up twenty-two percent of the nation's children under six years of age. These immigrant children are twice as likely as native-born children to be poor.

**NEW SECTION. Sec. 2.** (1) The secretary of the department of social and health services shall convene an advisory committee to analyze and make recommendations on the disproportionate representation of children of color in Washington's child welfare system. The department shall collaborate with the Washington institute for public policy and private sector entities to develop a methodology for the advisory committee to follow in conducting a baseline analysis of data from the child welfare system to determine whether racial disproportionality and racial disparity exist in this system. The Washington institute for public policy shall serve as technical staff for the advisory committee. In determining whether racial disproportionality or racial disparity exists, the committee shall utilize existing research and evaluations conducted within Washington state, nationally, and in other states and localities that have similarly analyzed the prevalence of racial disproportionality and disparity in child welfare.

(2) At a minimum, the advisory committee shall examine and analyze: (a) The level of involvement of children of color at each stage in the state's child welfare system, including the points of entry and exit, and each point at which a treatment decision is made; (b) the number of children of color in low-income or single-parent families involved in the state's child welfare system; (c) the family structures of families involved in the state's child welfare system; and (d) the outcomes for children in the existing child welfare system. This analysis shall be disaggregated by racial and ethnic group, and by geographic region.

(3) The committee of not more than fifteen individuals shall consist of experts in social work, law, child welfare, psychology, or related fields, at least two tribal representatives, a

2007 REGULAR SESSION

representative of the governor's juvenile justice advisory committee, a representative of a community-based organization involved with child welfare issues, a representative of the department of social and health services, a current or former foster care youth, a current or former foster care parent, and a parent previously involved with Washington's child welfare system. Committee members shall be selected as follows: (a) Five members selected by the senate majority leader; (b) five members selected by the speaker of the house of representatives; and (c) five members selected by the secretary of the department of social and health services. The secretary, the senate majority leader, and the speaker of the house of representatives shall coordinate appointments to ensure the representation specified in this subsection is achieved. After the advisory committee appointments are finalized, the committee shall select two individuals to serve as cochairs of the committee, one of whom shall be a representative from a nongovernmental entity.

(4) The secretary shall make reasonable efforts to seek public and private funding for the advisory committee.

(5) Not later than June 1, 2008, the advisory committee created in subsection (1) of this section shall report to the secretary of the department of social and health services on the results of the analysis. If the results of the analysis indicate disproportionality or disparity exists for any racial or ethnic group in any region of the state, the committee, in conjunction with the secretary of the department of social and health services, shall develop a plan for remedying the disproportionality or disparity. The remediation plan shall include: (a) Recommendations for administrative and legislative actions related to appropriate programs and services to reduce and eliminate disparities in the system and improve the long-term outcomes for children of color who are served by the system; and (b) performance measures for implementing the remediation plan. To the extent possible and appropriate, the remediation plan shall be developed to integrate the recommendations required in this subsection with the department's existing compliance plans, training efforts, and other practice improvement and reform initiatives in progress. The advisory committee shall be responsible for ongoing evaluation of current and prospective policies and procedures for their contribution to or effect on racial disproportionality and disparity.

(6) Not later than December 1, 2008, the secretary shall report the results of the analysis conducted under subsection (2) of this section and shall describe the remediation plan required under subsection (5) of this section to the appropriate committees of the legislature with jurisdiction over policy and fiscal matters relating to children, families, and human services. Beginning January 1, 2010, the secretary shall report annually to the appropriate committees of the legislature on the implementation of the remediation plan, including any measurable progress made in reducing and eliminating racial disproportionality and disparity in the state's child welfare system.

**NEW SECTION. Sec. 3.** This act expires June 30, 2014."

Senator Kauffman spoke in favor of adoption of the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1472.

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

MOTION

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

On page 1, line 2 of the title, after "welfare;" strike the remainder of the title and insert "creating new sections; and providing an expiration date."

MOTION

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

On motion of Senator Kauffman, the rules were suspended, Substitute House Bill No. 1472 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kauffman and Stevens spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1472 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1472 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Fairley and Pflug - 2

SUBSTITUTE HOUSE BILL NO. 1472 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1556, by Representatives Walsh, Grant, Haler, Sells, Springer, O'Brien, Seaquist, Ahern, Takko, Williams, Ericks, Roberts, Strow, Linville, Ormsby and McDermott

Designating the Walla Walla sweet onion as the official Washington state vegetable.

The measure was read the second time.

## MOTION

On motion of Senator Rasmussen, the rules were suspended, House Bill No. 1556 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rasmussen, Hewitt, Eide and Jacobsen spoke in favor of passage of the bill.

Senator Schoesler spoke against passage of the bill.

## MOTION

On motion of Senator Regala, Senator McAuliffe was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1556.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1556 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 3; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray,

Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 42

Voting nay: Senators Holmquist, Honeyford and Schoesler - 3

Absent: Senator Kauffman - 1

Excused: Senators Fairley, McAuliffe and Pflug - 3

HOUSE BILL NO. 1556, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1909, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Orcutt, B. Sullivan, Roach, Blake, Takko, Pearson, Kristiansen and Hinkle)

Protecting from the theft of specialized forest products.

The measure was read the second time.

## MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 76.48.130 and 1995 c 366 s 13 are each amended to read as follows:

(1) A person who violates a provision of this chapter, other than the provisions contained in RCW 76.48.120, as now or hereafter amended, is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for not to exceed one year or by both a fine and imprisonment.

(2) In any prosecution for a violation of this chapter's requirements to obtain or possess a specialized forest products permit or true copy thereof, an authorization, sales invoice, or bill of lading, it is an affirmative defense, if established by the defendant by a preponderance of the evidence, that: (a) The specialized forest products were harvested from the defendant's own land; or (b) the specialized forest products were harvested with the permission of the landowner.

NEW SECTION. Sec. 2. (1) The specialized forest products work group is established. The work group must consist of appropriate representation from: The department of natural resources; county sheriffs; county prosecutors; industrial and small forest landowners; tribes; recreational and professional wood carvers; cedar and specialty wood processors; and other appropriate persons invited by the commissioner of public lands.

(2) The specialized forest products work group must review the current specialized forest products statute, chapter 76.48 RCW, as well as applicable theft laws. The specialized forest products work group must evaluate the statute, as well as its application, and make recommendations, if any, to ensure that the specialized forest products requirements: Provide reasonable tools for law enforcement and reasonably protect landowners from theft; are not unduly burdensome to harvesters, those possessing or transporting specialized forest products, or cedar or specialty wood processors or buyers; are clear and may be readily understood by law enforcement and the public; and are administered and enforced consistently throughout the state.

(3) The specialized forest products work group must be staffed by the department of natural resources.

(4) The specialized forest products work group must provide a report to the appropriate committees of the legislature containing its recommendations, as well as draft legislation implementing its recommendations, by December 1, 2007.

(5) This section expires July 1, 2008.



EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

**Sec. 3.** RCW 76.48.020 and 2005 c 401 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) "Authorization" means a properly completed preprinted form authorizing the transportation or possession of Christmas trees which contains the information required by RCW 76.48.080, a sample of which is filed before the harvesting occurs with the sheriff of the county in which the harvesting is to occur.

(2) "Bill of lading" means a written or printed itemized list or statement of particulars pertinent to the transportation or possession of a specialized forest product.

(3) "Cascara bark" means the bark of a Cascara tree.

(4) "Cedar processor" means any person who purchases, takes, or retains possession of cedar products or cedar salvage for later sale in the same or modified form following removal and delivery from the land where harvested.

(5) "Cedar products" means cedar shakeboards, shake and shingle bolts, and rounds one to three feet in length.

(6) "Cedar salvage" means cedar chunks, slabs, stumps, and logs having a volume greater than one cubic foot and being harvested or transported from areas not associated with the concurrent logging of timber stands (a) under a forest practices application approved or notification received by the department of natural resources, or (b) under a contract or permit issued by an agency of the United States government.

(7) "Christmas trees" means any evergreen trees or the top thereof, commonly known as Christmas trees, with limbs and branches, with or without roots, including fir, pine, spruce, cedar, and other coniferous species.

(8) "Cut or picked evergreen foliage," commonly known as brush, means evergreen boughs, huckleberry foliage, salal, fern, Oregon grape, rhododendron, mosses, bear grass, scotch broom (*Cytisus scoparius*), and other cut or picked evergreen products. "Cut or picked evergreen foliage" does not mean cones, berries, any foliage that does not remain green year-round, or seeds.

(9) "Harvest" means to separate, by cutting, prying, picking, peeling, breaking, pulling, splitting, or otherwise removing, a specialized forest product (a) from its physical connection or contact with the land or vegetation upon which it is or was growing or (b) from the position in which it is lying upon the land.

(10) "Harvest site" means each location where one or more persons are engaged in harvesting specialized forest products close enough to each other that communication can be conducted with an investigating law enforcement officer in a normal conversational tone.

(11) "Huckleberry" means the following species of edible berries, if they are not nursery grown: *Vaccinium membranaceum*, *Vaccinium deliciosum*, *Vaccinium ovatum*, *Vaccinium parvifolium*, *Vaccinium globulare*, *Vaccinium ovalifolium*, *Vaccinium alaskaense*, *Vaccinium caespitosum*, *Vaccinium occidentale*, *Vaccinium uliginosum*, *Vaccinium myrtillus*, and *Vaccinium scoparium*.

(12) "Landowner" means, with regard to real property, the private owner, the state of Washington or any political subdivision, the federal government, or a person who by deed, contract, or lease has authority to harvest and sell forest products of the property. "Landowner" does not include the purchaser or successful high bidder at a public or private timber sale.

((+2)) (13) "Native ornamental trees and shrubs" means any trees or shrubs which are not nursery grown and which have been removed from the ground with the roots intact.

((+3)) (14) "Permit area" means a designated tract of land that may contain single or multiple harvest sites.

((+4)) (15) "Person" includes the plural and all corporations, foreign or domestic, copartnerships, firms, and associations of persons.

((+5)) (16) "Processed cedar products" means cedar shakes, shingles, fence posts, hop poles, pickets, stakes, rails, or rounds less than one foot in length.

((+6)) (17) "Sheriff" means, for the purpose of validating specialized forest products permits, the county sheriff, deputy

sheriff, or an authorized employee of the sheriff's office or an agent of the office.

((+7)) (18) "Specialized forest products" means Christmas trees, native ornamental trees and shrubs, cut or picked evergreen foliage, huckleberries, cedar products, cedar salvage, processed cedar products, specialty wood, wild edible mushrooms, and Cascara bark.

((+8)) (19) "Specialized forest products permit" means a printed document in a form printed by the department of natural resources, or true copy thereof, that is signed by a landowner or his or her authorized agent or representative, referred to in this chapter as "permittors" and validated by the county sheriff and authorizes a designated person, referred to in this chapter as "permittee," who has also signed the permit, to harvest and transport a designated specialized forest product from land owned or controlled and specified by the permittor and that is located in the county where the permit is issued.

((+9)) (20) "Specialty wood" means wood that is:

(a) In logs less than eight feet in length, chunks, slabs, stumps, or burls; and

(b) One or more of the following:

(i) Of the species western red cedar, Englemann spruce, Sitka spruce, big leaf maple, or western red alder;

(ii) Without knots in a portion of the surface area at least twenty-one inches long and seven and a quarter inches wide when measured from the outer surface toward the center; or

(iii) Suitable for the purposes of making musical instruments or ornamental boxes.

((+0)) (21) "Specialty wood buyer" means the first person that receives any specialty wood product after it leaves the harvest site.

((+1)) (22) "Specialty wood processor" means any person who purchases, takes, or retains possession of specialty wood products or specialty wood salvage for later sale in the same or modified form following removal and delivery from the land where harvested.

((+2)) (23) "Transportation" means the physical conveyance of specialized forest products outside or off of a harvest site by any means.

((+3)) (24) "True copy" means a replica of a validated specialized forest products permit as reproduced by a copy machine capable of effectively reproducing the information contained on the permittee's copy of the specialized forest products permit. A copy is made true by the permittee or the permittee and permittor signing in the space provided on the face of the copy. A true copy will be effective until the expiration date of the specialized forest products permit unless the permittee or the permittee and permittor specify an earlier date. A permittor may require the actual signatures of both the permittee and permittor for execution of a true copy by so indicating in the space provided on the original copy of the specialized forest products permit. A permittee, or, if so indicated, the permittee and permittor, may condition the use of the true copy to harvesting only, transportation only, possession only, or any combination thereof.

((+4)) (25) "Wild edible mushrooms" means edible mushrooms not cultivated or propagated by artificial means.

**Sec. 4.** RCW 76.48.060 and 2005 c 401 s 3 are each amended to read as follows:

(1)(a) A specialized forest products permit validated by the county sheriff shall be obtained by a person prior to harvesting from any lands, including his or her own, any of the following: More than five Christmas trees(-); more than five native ornamental trees or shrubs(-); more than five pounds of cut or picked evergreen foliage(-); any cedar products, cedar salvage, or processed cedar products(-or); more than five pounds of Cascara bark(-); or more than five United States gallons of a single species of wild edible mushroom.

(b) A specialized forest products permit validated by the county sheriff must be obtained by a person prior to harvesting from any lands, except his or her own, more than three United States gallons of huckleberries in a single day.

(2) Specialized forest products permit forms shall be provided by the department of natural resources, and shall be made available through the office of the county sheriff to

EIGHTY-EIGHTH DAY, APRIL 5, 2007

permittees or permittors in reasonable quantities. A permit form shall be completed in triplicate for each permittor's property on which a permittee harvests specialized forest products. A properly completed permit form shall be mailed or presented for validation to the sheriff of the county in which the specialized forest products are to be harvested.

(3) Before a permit form is validated by the sheriff, sufficient personal identification may be required to reasonably identify the person mailing or presenting the permit form and the sheriff may conduct other investigations as deemed necessary to determine the validity of the information alleged on the form. When the sheriff is reasonably satisfied as to the truth of the information, the form shall be validated with the sheriff's validation stamp.

(4) Upon validation, the form shall become the specialized forest products permit authorizing the harvesting, possession, or transportation of specialized forest products, subject to any other conditions or limitations which the permittor may specify. Two copies of the permit shall be given or mailed to the permittor, or one copy shall be given or mailed to the permittor and the other copy given or mailed to the permittee. The original permit shall be retained in the office of the county sheriff validating the permit.

(5) In the event a single land ownership is situated in two or more counties, a specialized forest product permit shall be completed as to the land situated in each county.

(6) While engaged in harvesting of specialized forest products, permittees, or their agents or employees, must have readily available at each harvest site a valid permit or true copy of the permit.

**Sec. 5.** RCW 76.48.070 and 2005 c 401 s 4 are each amended to read as follows:

(1) Except as provided in RCW 76.48.100 and 76.48.075, it is unlawful for any person (a) to possess, (b) to transport, or (c) to possess and transport within the state of Washington, subject to any other conditions or limitations specified in the specialized forest products permit by the permittor, more than five Christmas trees, more than five native ornamental trees or shrubs, more than five pounds of cut or picked evergreen foliage, any processed cedar products, ~~((or))~~ more than five pounds of Cascara bark, ~~((or))~~ more than five gallons of a single species of wild edible mushroom, or more than three gallons of huckleberries without having in his or her possession a written authorization, sales invoice, bill of lading, or specialized forest products permit or a true copy thereof evidencing his or her title to or authority to have possession of specialized forest products being so possessed or transported. However, a person does not need a written authorization, sales invoice, bill of lading, or specialized forest products permit or true copy thereof to store, at that person's residence or property, ten or fewer gallons of huckleberries for noncommercial use.

(2) It is unlawful for any person either (a) to possess, (b) to transport, or (c) to possess and transport within the state of Washington any cedar products, cedar salvage, or specialty wood without having in his or her possession a specialized forest products permit or a true copy thereof evidencing his or her title to or authority to have possession of the materials being so possessed or transported. The specialized forest products permit or true copy are valid to possess, transport, or possess and transport the cedar products, cedar salvage, or specialty wood from the harvest site to the first cedar or specialty wood processor or buyer. For purposes of this subsection, a true copy requires the actual signatures of both the permittee and the permittor for the execution of a true copy.

**Sec. 6.** RCW 76.48.030 and 1995 c 366 s 2 are each amended to read as follows:

It is unlawful for any person to:

(1) Harvest specialized forest products as described in RCW 76.48.020, in the quantities specified in RCW 76.48.060, without first obtaining a validated specialized forest products permit;

(2) Engage in activities or phases of harvesting specialized forest products not authorized by the permit; ~~((or))~~

(3) Harvest specialized forest products in any lesser quantities than those specified in RCW 76.48.060, as now or

2007 REGULAR SESSION

hereafter amended, without first obtaining permission from the landowner or his or her duly authorized agent or representative; or (4) Harvest huckleberries in any amount using a rake, mechanical device, or any other method that damages the huckleberry bush."

Senator Jacobsen spoke in favor of adoption of the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to Substitute House Bill No. 1909.

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

#### MOTION

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

On page 1, line 1 of the title, after "products;" strike the remainder of the title and insert "amending RCW 76.48.130, 76.48.020, 76.48.060, 76.48.070, and 76.48.030; creating a new section; and providing an expiration date."

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 1909 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen, Hargrove and Honeyford spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1909 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1909 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 0; Excused, 3.

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

Voting nay: Senator Holmquist - 1

Excused: Senators Fairley, McAuliffe and Pflug - 3

SUBSTITUTE HOUSE BILL NO. 1909 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4011, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Kessler, Warnick, Haler, Kretz, Hinkle, Orcutt, Newhouse, Lantz, McCune, Kristiansen, Haigh, B. Sullivan and Dunn)

Requesting federal legislation to preserve the use and access of pack and saddle stock animals on public lands.

The measure was read the second time.

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

## MOTION

On motion of Senator Rasmussen, the rules were suspended, Engrossed Substitute House Joint Memorial No. 4011 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senators Rasmussen and Morton spoke in favor of passage of the memorial.

The President Pro Tempore declared the question before the Senate to be the final passage of Engrossed Substitute House Joint Memorial No. 4011.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Joint Memorial No. 4011 and the memorial passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Fairley, McAuliffe and Pflug - 3

ENGROSSED SUBSTITUTE HOUSE JOINT MEMORIAL NO. 4011, having received the constitutional majority, was declared passed.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1029, by House Committee on Technology, Energy & Communications (originally sponsored by Representatives B. Sullivan, Linville and Morris)

Defining E85 motor fuel.

The measure was read the second time.

## MOTION

Senator Poulsen moved that the following committee striking amendment by the Committee on Water, Energy & Telecommunications be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 19.112.010 and 2006 c 338 s 15 are each amended to read as follows:

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

(1) "Alcohol fuel" means any alcohol made from a product other than petroleum or natural gas that is used alone or in combination with gasoline or other petroleum products for use as a fuel in self-propelled motor vehicles.

(2) "Alternative fuel" means all products or energy sources used to propel motor vehicles, other than conventional gasoline, diesel, or reformulated gasoline. Alternative fuel includes, but is not limited to, liquefied petroleum gas, liquefied natural gas, compressed natural gas, biodiesel fuel, E85 motor fuel, fuels containing seventy percent or more by volume of alcohol fuel, fuels that are derived from biomass, hydrogen fuel, anhydrous ammonia fuel, nonhazardous motor fuel, or electricity, excluding onboard electric generation.

(3) "Biodiesel fuel" means the monoalkyl esters of long chain fatty acids derived from plant or animal matter that meet the registration requirements for fuels and fuel additives established by the federal environmental protection agency and standards established by the American society of testing and materials.

~~((2))~~ (4) "Diesel" means special fuel as defined in RCW 82.38.020, and diesel fuel dyed in accordance with the regulations in 26 C.F.R. Sec. 48.4082-1T as of October 24, 2005.

~~((3))~~ (5) "Director" means the director of agriculture.

~~((4))~~ (6) "E85 motor fuel" means an alternative fuel that is a blend of ethanol and hydrocarbon of which the ethanol portion is nominally seventy-five to eighty-five percent denatured fuel ethanol by volume that complies with the most recent version of American society of testing and materials specification D 5798.

(7) "Motor fuel" means any liquid product used for the generation of power in an internal combustion engine used for the propulsion of a motor vehicle upon the highways of this state, and any biodiesel fuel. Motor fuels containing ethanol may be marketed if either (a) the base motor fuel meets the applicable standards before the addition of the ethanol or (b) the resultant blend meets the applicable standards after the addition of the ethanol.

(8) "Nonhazardous motor fuel" means any fuel of a type distributed for use in self-propelled motor vehicles that does not contain a hazardous liquid as defined in RCW 19.122.020.

Sec. 2. RCW 19.112.120 and 2006 c 338 s 3 are each amended to read as follows:

(1) By December 1, 2008, motor vehicle fuel licensees under chapter 82.36 RCW, other than motor vehicle fuel distributors, shall provide evidence to the department of licensing that at least two percent of total gasoline sold in Washington, measured on a quarterly basis, is denatured ethanol.

(2) If the director of ecology determines that ethanol content greater than two percent of the total gasoline sold in Washington will not jeopardize continued attainment of the federal clean air act's national ambient air quality standard for ozone pollution in Washington and the director of agriculture determines and publishes this determination in the Washington State Register that sufficient raw materials are available within Washington to support economical production of ethanol at higher levels, the director of agriculture may require by rule that licensees provide evidence to the department of licensing that denatured ethanol comprises between two percent and at least ten percent of total gasoline sold in Washington, measured on a quarterly basis.

(3) The requirements of subsections (1) and (2) of this section shall take effect no sooner than one hundred eighty days after the determination has been published in the Washington State Register.

(4) The director and the director of licensing shall each adopt rules, in coordination with each other, for enforcing and carrying out the purposes of this section.

(5) Nothing in this section is intended to prohibit the production, sale, or use of motor fuel for use in federally designated flexibly fueled vehicles capable of using ~~((up to eighty-five percent ethanol fuel blends))~~ E85 motor fuel. Nothing in this section is intended to limit the use of high octane gasoline not blended with ethanol for use in aircraft.

Sec. 3. RCW 82.04.4334 and 2003 c 63 s 1 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax amounts received from the retail sale, or for the distribution, of:

(a) Biodiesel fuel; or

(b) ~~((Alcohol fuel, if the alcohol fuel is at least eighty-five percent of the volume of the fuel being sold or distributed))~~ E85 motor fuel.

(2) For the purposes of this section and RCW 82.08.955 and 82.12.955, the following definitions apply:

(a) "Biodiesel fuel" means a mono alkyl ester of long chain fatty acids derived from vegetable oils or animal fats for use in compression-ignition engines and that meets the requirements of the American society of testing and materials specification D 6751 in effect as of January 1, 2003.

(b) ~~((Alcohol fuel means any alcohol made from a product other than petroleum or natural gas, which is used alone or in combination with gasoline or other petroleum products for use as a fuel for motor vehicles, farm implements and machines, or implements of husbandry.))~~ "E85 motor fuel" means an

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

alternative fuel that is a blend of ethanol and hydrocarbon of which the ethanol portion is nominally seventy-five to eighty-five percent denatured fuel ethanol by volume that complies with the most recent version of American society of testing and materials specification D 5798.

(c) "Distribution" means any of the actions specified in RCW 82.36.020(2).

(3) This section expires July 1, ~~((2009))~~ 2015.

**Sec. 4.** RCW 82.08.955 and 2003 c 63 s 2 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of machinery and equipment, or to services rendered in respect to constructing structures, installing, constructing, repairing, cleaning, decorating, altering, or improving of structures or machinery and equipment, or to sales of tangible personal property that becomes an ingredient or component of structures or machinery and equipment, if the machinery, equipment, or structure is used directly for the retail sale of a biodiesel (~~((or alcohol fuel))~~) blend or E85 motor fuel. Structures and machinery and equipment that are used for the retail sale of a biodiesel (~~((or alcohol fuel))~~) blend or E85 motor fuel and for other purposes are exempt only on the portion used directly for the retail sale of a biodiesel (~~((or alcohol fuel))~~) blend or E85 motor fuel.

(2) The tax levied by RCW 82.08.020 does not apply to sales of fuel delivery vehicles or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the vehicles including repair parts and replacement parts if at least seventy-five percent of the fuel distributed by the vehicles is a biodiesel (~~((or alcohol fuel))~~) blend or E85 motor fuel.

(3) A person taking the exemption under this section must keep records necessary for the department to verify eligibility under this section. The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files.

(4) For the purposes of this section, the definitions in RCW 82.04.4334 and this subsection apply.

(a) (~~"Alcohol fuel blend" means fuel that contains at least eighty-five percent alcohol fuel by volume.~~

~~(b)) "Biodiesel blend" means fuel that contains at least twenty percent biodiesel fuel by volume.~~

(b) "E85 motor fuel" means an alternative fuel that is a blend of ethanol and hydrocarbon of which the ethanol portion is nominally seventy-five to eighty-five percent denatured fuel ethanol by volume that complies with the most recent version of American society of testing and materials specification D 5798.

(c) "Machinery and equipment" means industrial fixtures, devices, and support facilities and tangible personal property that becomes an ingredient or component thereof, including repair parts and replacement parts that are integral and necessary for the delivery of biodiesel (~~((or alcohol fuel))~~) blends or E85 motor fuel into the fuel tank of a motor vehicle.

(5) This section expires July 1, ~~((2009))~~ 2015.

**Sec. 5.** RCW 82.12.955 and 2003 c 63 s 3 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of machinery and equipment, or to services rendered in respect to installing, repairing, cleaning, altering, or improving of eligible machinery and equipment, or tangible personal property that becomes an ingredient or component of machinery and equipment used directly for the retail sale of a biodiesel or (~~alcohol fuel blend~~) E85 motor fuel.

(2) The provisions of this chapter do not apply in respect to the use of fuel delivery vehicles including repair parts and replacement parts and to services rendered in respect to installing, repairing, cleaning, altering, or improving the vehicles if at least seventy-five percent of the fuel distributed by the vehicles is a biodiesel or (~~alcohol fuel blend~~) E85 motor fuel.

(3) For the purposes of this section, the definitions in RCW 82.04.4334 and 82.08.955 apply.

(4) This section expires July 1, ~~((2009))~~ 2015."

Senator Poulsen spoke in favor of adoption of the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Water, Energy & Telecommunications to Substitute House Bill No. 1029.

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

#### MOTION

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

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "defining alternative motor fuels; amending RCW 19.112.010, 19.112.120, 82.04.4334, 82.08.955, and 82.12.955; and providing expiration dates."

#### MOTION

On motion of Senator Poulsen, the rules were suspended, Substitute House Bill No. 1029 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Poulsen and Honeyford spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1029 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1029 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Fairley, McAuliffe and Pflug - 3

SUBSTITUTE HOUSE BILL NO. 1029 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1201, by House Committee on Appropriations (originally sponsored by Representatives Roberts, Kagi, Haler, P. Sullivan, Walsh, Pettigrew, Darneille, Santos, McCoy, Ormsby, Wood, Dickerson, Clibborn, Schual-Berke, Simpson, Lantz, Hasegawa, Kenney, Pedersen and Seaquist)

Extending medicaid coverage for foster care youth who reach age eighteen.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

EIGHTY-EIGHTH DAY, APRIL 5, 2007

"Sec. 1. RCW 74.09.510 and 2001 2nd sp.s. c 15 s 3 and 2001 1st sp.s. c 4 s 1 are each reenacted and amended to read as follows:

Medical assistance may be provided in accordance with eligibility requirements established by the department, as defined in the social security Title XIX state plan for mandatory categorically needy persons and:

(1) Individuals who would be eligible for cash assistance except for their institutional status;

(2) Individuals who are under twenty-one years of age, who would be eligible for medicaid, but do not qualify as dependent children and who are in (a) foster care, (b) subsidized adoption, (c) a nursing facility or an intermediate care facility for ~~((the))~~ persons who are mentally retarded, or (d) inpatient psychiatric facilities;

~~((3))~~ ~~((the))~~ Individuals who:

~~((a))~~ Are under twenty-one years of age;

~~((b))~~ Were in foster care in the state of Washington on or after the effective date of this act; and

~~((c))~~ Were in foster care in the state of Washington on their eighteenth birthday;

~~((4))~~ Persons who are aged, blind, ~~((and))~~ or disabled who: (a) Receive only a state supplement, or (b) would not be eligible for cash assistance if they were not institutionalized;

~~((5))~~ ~~((#))~~ (5) Categorically eligible individuals who meet the income and resource requirements of the cash assistance programs;

~~((6))~~ (6) Individuals who are enrolled in managed health care systems, who have otherwise lost eligibility for medical assistance, but who have not completed a current six-month enrollment in a managed health care system, and who are eligible for federal financial participation under Title XIX of the social security act;

~~((7))~~ (7) Children and pregnant women allowed by federal statute for whom funding is appropriated;

~~((8))~~ (8) Working individuals with disabilities authorized under section 1902(a)(10)(A)(ii) of the social security act for whom funding is appropriated;

~~((9))~~ (9) Other individuals eligible for medical services under RCW 74.09.035 and 74.09.700 for whom federal financial participation is available under Title XIX of the social security act;

~~((10))~~ (10) Persons allowed by section 1931 of the social security act for whom funding is appropriated; and

~~((11))~~ (11) Women who: (a) Are under sixty-five years of age; (b) have been screened for breast and cervical cancer under the national breast and cervical cancer early detection program administered by the department of health or tribal entity and have been identified as needing treatment for breast or cervical cancer; and (c) are not otherwise covered by health insurance. Medical assistance provided under this subsection is limited to the period during which the woman requires treatment for breast or cervical cancer, and is subject to any conditions or limitations specified in the omnibus appropriations act.

Sec. 2. RCW 74.09.530 and 2000 c 218 s 2 are each amended to read as follows:

(1) The amount and nature of medical assistance and the determination of eligibility of recipients for medical assistance shall be the responsibility of the department of social and health services. The department shall establish reasonable standards of assistance and resource and income exemptions which shall be consistent with the provisions of the Social Security Act and with the regulations of the secretary of health, education and welfare for determining eligibility of individuals for medical assistance and the extent of such assistance to the extent that funds are available from the state and federal government. The department shall not consider resources in determining continuing eligibility for recipients eligible under section 1931 of the social security act.

(2) Individuals eligible for medical assistance under RCW 74.09.510(3) shall be transitioned into coverage under that subsection immediately upon their termination from coverage under RCW 74.09.510(2)(a). The department shall use income eligibility standards and eligibility determinations applicable to children placed in foster care. The department, in consultation

2007 REGULAR SESSION

with the health care authority, shall provide information regarding basic health plan enrollment and shall offer assistance with the application and enrollment process to individuals covered under RCW 74.09.510(3) who are approaching their twenty-first birthday.

NEW SECTION. Sec. 3. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

#### MOTION

Senator Keiser moved that the following amendment by Senators Keiser and Parlette to the committee striking amendment be adopted.

On page 1, beginning on line 18 of the amendment, after "~~((b))~~" strike "Were in foster care in the state of Washington on or after the effective date of this act;" and insert "On or after the effective date of this section, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state;"

On page 1, beginning on line 20 of the amendment, after "~~((c))~~" strike "Were in foster care in the state of Washington on their eighteenth birthday;" and insert "On their eighteenth birthday, were in foster care under the legal responsibility of the department or a federally recognized tribe located within the state;"

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

The President Pro Tempore declared the question before the Senate to be the adoption of the amendment by Senators Keiser and Parlette on page 1, line 18 to the committee striking amendment to Second Substitute House Bill No. 1201.

The motion by Senator Keiser carried and the amendment to the committee striking amendment was adopted by voice vote.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means as amended to Second Substitute House Bill No. 1201.

The motion by Senator Keiser carried and the committee striking amendment as amended was adopted by voice vote.

#### MOTION

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

On page 1, line 2 of the title, after "eighteen;" strike the remainder of the title and insert "amending RCW 74.09.530; reenacting and amending RCW 74.09.510; and creating a new section."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Second Substitute House Bill No. 1201 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Parlette spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1201 as amended by the Senate.

#### ROLL CALL

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1201 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Fairley and Pflug - 2

SECOND SUBSTITUTE HOUSE BILL NO. 1201 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1231, by Representatives Kirby, Roach, Simpson, Strow and Santos

Modifying provisions concerning pawnbrokers.

The measure was read the second time.

#### MOTION

On motion of Senator Berkey, the rules were suspended, House Bill No. 1231 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Berkey, Benton and Prentice spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1231.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1231 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Brown - 1

Excused: Senators Fairley and Pflug - 2

HOUSE BILL NO. 1231, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1259, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives B. Sullivan, Kretz, Blake and Moeller)

Allowing the parks and recreation commission to deny or revoke the issuance of a park pass in certain circumstances.

The measure was read the second time.

#### MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 79A.05.065 and 1999 c 249 s 305 are each amended to read as follows:

(1)(a) The commission shall grant to any person who meets the eligibility requirements specified in this section a senior citizen's pass which shall ~~((a))~~ entitle such person, and members of his or her camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and ~~((b))~~ entitle such person to free admission to any state park.

~~((2))~~ (b) The commission shall grant a senior citizen's pass to any person who applies for the same and who meets the following requirements:

~~((a))~~ (i) The person is at least sixty-two years of age; and

~~((b))~~ (ii) The person is a domiciliary of the state of Washington and meets reasonable residency requirements prescribed by the commission; and

~~((c))~~ (iii) The person and his or her spouse have a combined income which would qualify the person for a property tax exemption pursuant to RCW 84.36.381 ~~(as now law or hereafter amended)~~. The financial eligibility requirements of this ~~(subparagraph (c))~~ subsection (1)(b)(iii) shall apply regardless of whether the applicant for a senior citizen's pass owns taxable property or has obtained or applied for such property tax exemption.

~~((3))~~ (c) Each senior citizen's pass granted pursuant to this section is valid so long as the senior citizen meets the requirements of (b)(ii) of this subsection ~~((2)(b) of this section)~~. Notwithstanding, any senior citizen meeting the eligibility requirements of this section may make a voluntary donation for the upkeep and maintenance of state parks.

~~((4))~~ (d) A holder of a senior citizen's pass shall surrender the pass upon request of a commission employee when the employee has reason to believe the holder fails to meet the criteria in (b) of this subsection ~~((2)(a), (b), or (c) of this section)~~. The holder shall have the pass returned upon providing proof to the satisfaction of the director of the parks and recreation commission that the holder does meet the eligibility criteria for obtaining the senior citizen's pass.

~~((5))~~ (2)(a) Any resident of Washington who is disabled as defined by the social security administration and who receives social security benefits for that disability, or any other benefits for that disability from any other governmental or nongovernmental source, or who is entitled to benefits for permanent disability under RCW 71A.10.020(3) due to unemployability full time at the minimum wage, or who is legally blind or profoundly deaf, or who has been issued a card, decal, or special license plate for a permanent disability under RCW 46.16.381 shall be entitled to receive, regardless of age and upon making application therefor, a disability pass at no cost to the holder. The pass shall ~~((a))~~ entitle such person, and members of his or her camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and ~~((b))~~ entitle such person to free admission to any state park.

~~((6))~~ (b) A card, decal, or special license plate issued for a permanent disability under RCW 46.16.381 may serve as a pass for the holder to entitle that person and members of the person's camping unit to a fifty percent reduction in the campsite rental fee prescribed by the commission, and to allow the holder free admission to state parks.

~~((7))~~ (3) Any resident of Washington who is a veteran and has a service-connected disability of at least thirty percent shall be entitled to receive a lifetime veteran's disability pass at no cost to the holder. The pass shall: (a) Entitle such person, and members of his or her camping unit, to free use of any campsite within any state park; (b) entitle such person to free admission to any state park; and (c) entitle such person to an exemption from any reservation fees.

~~((8))~~ (4) All passes issued pursuant to this section shall be valid at all parks any time during the year ~~(--PROVIDED;~~

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

~~That~~)). However, the pass shall not be valid for admission to concessionaire operated facilities.

~~((9))~~ (5) The commission may deny or revoke any Washington state park pass issued under this section for cause, including but not limited to the following:

- (a) Residency outside the state of Washington;
- (b) Violation of laws or state park rules resulting in eviction from a state park;
- (c) Intimidating, obstructing, or assaulting a park employee or park volunteer who is engaged in the performance of official duties;
- (d) Fraudulent use of a pass;
- (e) Providing false information or documentation in the application for a state parks pass;
- (f) Refusing to display or show the pass to park employees when requested; or
- (g) Failing to provide current eligibility information upon request by the agency or when eligibility ceases or changes.

(6) This section shall not affect or otherwise impair the power of the commission to continue or discontinue any other programs it has adopted for senior citizens.

~~((10))~~ (7) The commission may engage in a mutually agreed upon reciprocal or discounted program for all or specific pass programs with other outdoor recreation agencies.

(8) The commission shall adopt such rules as it finds appropriate for the administration of this section. Among other things, such rules shall prescribe a definition of "camping unit" which will authorize a reasonable number of persons traveling with the person having a pass to stay at the campsite rented by such person, a minimum Washington residency requirement for applicants for a senior citizen's pass and an application form to be completed by applicants for a senior citizen's pass.

**Sec. 2.** RCW 79A.05.165 and 2003 c 53 s 382 are each amended to read as follows:

(1) Every person is guilty of a misdemeanor who:

(a) Cuts, breaks, injures, destroys, takes, or removes any tree, shrub, timber, plant, or natural object in any park or parkway except in accordance with such rules as the commission may prescribe; or

(b) Kills, or pursues with intent to kill, any bird or animal in any park or parkway except in accordance with a research pass, permit, or other approval issued by the commission, pursuant to rule, for scientific research purposes; or

(c) Takes any fish from the waters of any park or parkway, except in conformity with such general rules as the commission may prescribe; or

(d) Willfully mutilates, injures, defaces, or destroys any guidepost, notice, tablet, fence, inclosure, or work for the protection or ornamentation of any park or parkway; or

(e) Lights any fire upon any park or parkway, except in such places as the commission has authorized, or willfully or carelessly permits any fire which he or she has lighted or which is under his or her charge, to spread or extend to or bum any of the shrubbery, trees, timber, ornaments, or improvements upon any park or parkway, or leaves any campfire which he or she has lighted or which has been left in his or her charge, unattended by a competent person, without extinguishing it; or

(f) Places within any park or parkway or affixes to any object therein contained, without a written license from the commission, any word, character, or device designed to advertise any business, profession, article, thing, exhibition, matter, or event.

(2)(a) Except as provided in (b) of this subsection, a person who violates any rule adopted, promulgated, or issued by the commission pursuant to the provisions of this chapter is guilty of a misdemeanor.

(b) The commission may specify by rule, when not inconsistent with applicable statutes, that violation of the rule is an infraction under chapter 7.84 RCW."

Senator Jacobsen spoke in favor of adoption of the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment

by the Committee on Natural Resources, Ocean & Recreation to Substitute House Bill No. 1259.

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

#### MOTION

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

On page 1, line 1 of the title, after "passes;" strike the remainder of the title and insert "and amending RCW 79A.05.065 and 79A.05.165."

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 1259 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1259 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1259 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Fairley and Pflug - 2

SUBSTITUTE HOUSE BILL NO. 1259 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1187, by Representatives Kelley, Wood, Morrell, Green, Pettigrew, Ormsby, McDermott, Miloscia, Appleton, Simpson and Haigh

Creating a new chapter regarding affordable housing.

The measure was read the second time.

#### MOTION

Senator Weinstein moved that the following committee striking amendment by the Committee on Consumer Protection & Housing be adopted.

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new chapter is added to Title 43 RCW. The following sections are recodified under the following subchapters:

(1) "Housing assistance program" as follows:

RCW 43.185.010;

RCW 43.185.015;

RCW 43.185.020;

RCW 43.185.030;

RCW 43.185.050;  
 RCW 43.185.060;  
 RCW 43.185.070;  
 RCW 43.185.074;  
 RCW 43.185.076;  
 RCW 43.185.080;  
 RCW 43.185.090;  
 RCW 43.185.100;  
 RCW 43.185.110;  
 RCW 43.185.120;  
 RCW 43.185.130;  
 RCW 43.185.900;  
 RCW 43.185.910; and  
 RCW 43.185.911.

(2) "Affordable housing program" as follows:

RCW 43.185A.010;  
 RCW 43.185A.020;  
 RCW 43.185A.030;  
 RCW 43.185A.040;  
 RCW 43.185A.050;  
 RCW 43.185A.060;  
 RCW 43.185A.070;  
 RCW 43.185A.080;  
 RCW 43.185A.090;  
 RCW 43.185A.100;  
 RCW 43.185A.900;  
 RCW 43.185A.901; and  
 RCW 43.185A.902.

(3) "Housing policy act" as follows:

RCW 43.185B.005;  
 RCW 43.185B.007;  
 RCW 43.185B.009;  
 RCW 43.185B.010;  
 RCW 43.185B.020;  
 RCW 43.185B.030;  
 RCW 43.185B.040;  
 RCW 43.185B.900;  
 RCW 43.63A.650;  
 RCW 43.330.170; and  
 RCW 35.21.685.

(4) "Housing cooperation" as follows:

RCW 35.83.005;  
 RCW 35.83.010;  
 RCW 35.83.020;  
 RCW 35.83.030;  
 RCW 35.83.040;  
 RCW 35.83.050;  
 RCW 35.83.060; and  
 RCW 35.83.070.

(5) "Federally assisted housing" as follows:

RCW 59.28.010;  
 RCW 59.28.020;  
 RCW 59.28.030;  
 RCW 59.28.040;  
 RCW 59.28.050;  
 RCW 59.28.060;  
 RCW 59.28.070;  
 RCW 59.28.080;  
 RCW 59.28.090;  
 RCW 59.28.100;  
 RCW 59.28.120;  
 RCW 59.28.130;  
 RCW 59.28.900;  
 RCW 59.28.901; and  
 RCW 59.28.902.

(6) "Farm worker housing" as follows:

RCW 43.63A.500;  
 RCW 43.63A.505;  
 RCW 43.330.165;

RCW 70.114.010;  
 RCW 70.114.020;  
 RCW 70.114A.010;  
 RCW 70.114A.020;  
 RCW 70.114A.030;  
 RCW 70.114A.040;  
 RCW 70.114A.045;  
 RCW 70.114A.050;  
 RCW 70.114A.060;  
 RCW 70.114A.065;  
 RCW 70.114A.070;  
 RCW 70.114A.081;  
 RCW 70.114A.085;  
 RCW 70.114A.100;  
 RCW 70.114A.110;  
 RCW 70.114A.900; and  
 RCW 70.114A.901.

(7) "Emergency mortgage and rental assistance" as follows:

RCW 43.63A.610;  
 RCW 43.63A.620;  
 RCW 43.63A.630;  
 RCW 43.63A.640; and  
 RCW 43.63A.645.

(8) "Low-income residential weatherization and energy assistance" as follows:

RCW 70.164.010;  
 RCW 70.164.020;  
 RCW 70.164.030;  
 RCW 70.164.040;  
 RCW 70.164.050;  
 RCW 70.164.060;  
 RCW 70.164.070;  
 RCW 70.164.900; and  
 RCW 43.330.110.

(9) "Surplus property for affordable housing" as follows:

RCW 43.63A.510;  
 RCW 35.21.687;  
 RCW 36.34.137;  
 RCW 43.20A.037;  
 RCW 47.12.063;  
 RCW 47.12.064;  
 RCW 72.09.055; and  
 RCW 43.19.19201.

**Sec. 2.** RCW 64.34.440 and 1992 c 220 s 25 are each amended to read as follows:

(1)(a) A declarant of a conversion condominium, and any dealer who intends to offer units in such a condominium, shall give each of the residential tenants and any residential subtenant in possession of a portion of a conversion condominium notice of the conversion and provide those persons with the public offering statement no later than ~~((ninety))~~ one hundred twenty days before the tenants and any subtenant in possession are required to vacate. The notice must:

(i) Set forth generally the rights of tenants and subtenants under this section ((and shall));

(ii) Be delivered pursuant to notice requirements set forth in RCW 59.12.040; and

(iii) Expressly state whether there is a county or city relocation assistance requirement for tenants or subtenants of conversion condominiums in the jurisdiction in which the property is located. If the county or city does have a relocation assistance requirement, the following must also be included in the notice:

(A) The terms and conditions under which relocation assistance is paid; and

(B) Any information or forms prescribed by the county or city by ordinance or rule related to the relocation assistance requirement.



EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

(b) No tenant or subtenant may be required to vacate upon less than ~~((ninety))~~ one hundred twenty days' notice, except by reason of nonpayment of rent, waste, conduct that disturbs other tenants' peaceful enjoyment of the premises, or act of unlawful detainer as defined in RCW 59.12.030, and the terms of the tenancy may not be altered during that period except as provided in (c) of this subsection.

(c) At the declarant's option, the declarant may provide all tenants in a single building with an option to terminate their lease or rental agreements without cause or consequence after providing the declarant with thirty days' notice. In such case, tenants shall continue to have access to relocation assistance as provided in subsection (6)(e) of this section.

(d) Nothing in this subsection shall be deemed to waive or repeal RCW 59.18.200(2). Failure to give notice as required by this section, or failure to pay any required relocation assistance, is a defense to an action for possession.

(2) For sixty days after delivery or mailing of the notice described in subsection (1) of this section, the person required to give the notice shall offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that sixty-day period, the offeror may offer to dispose of an interest in that unit during the following one hundred eighty days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant only if: (a) Such offeror, by written notice mailed to the tenant's last known address, offers to sell an interest in that unit at the more favorable price and terms, and (b) such tenant fails to accept such offer in writing within ten days following the mailing of the offer to the tenant. This subsection does not apply to any unit in a conversion condominium if that unit will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

(3) If a seller, in violation of subsection (2) of this section, conveys a unit to a purchaser for value who has no knowledge of the violation, recording of the deed conveying the unit extinguishes any right a tenant may have to purchase that unit but does not affect the right of a tenant to recover damages from the seller for a violation of subsection (2) of this section.

(4) If a notice of conversion specifies a date by which a unit or proposed unit must be vacated and otherwise complies with the provisions of this chapter and chapter 59.18 RCW, the notice also constitutes a notice to vacate specified by that statute.

(5) Nothing in this section permits termination of a lease by a declarant in violation of its terms.

(6) Notwithstanding RCW 64.34.050(1), a city or county may by appropriate ordinance require with respect to any conversion condominium within the jurisdiction of such city or county that:

(a) In addition to the statement required by RCW 64.34.415(1)(a), the public offering statement shall contain a copy of the written inspection report prepared by the appropriate department of such city or county, which report shall list any violations of the housing code or other governmental regulation, which code or regulation is applicable regardless of whether the real property is owned as a condominium or in some other form of ownership; said inspection shall be made within forty-five days of the declarant's written request therefor and said report shall be issued within fourteen days of said inspection being made. Such inspection may not be required with respect to any building for which a final certificate of occupancy has been issued by the city or county within the preceding twenty-four months; and any fee imposed for the making of such inspection may not exceed the fee that would be imposed for the making of such an inspection for a purpose other than complying with this subsection (6)(a);

(b) Prior to the conveyance of any residential unit within a conversion condominium, other than a conveyance to a declarant or affiliate of a declarant: (i) All violations disclosed in the inspection report provided for in (a) of this subsection, and not otherwise waived by such city or county, shall be repaired, and (ii) a certification shall be obtained from such city or county that such repairs have been made, which certification shall be based on a reinspection to be made within seven days of the declarant's written request therefor and which certification shall be issued within seven days of said reinspection being made;

(c) The repairs required to be made under (b) of this subsection shall be warranted by the declarant against defects due to workmanship or materials for a period of one year following the completion of such repairs;

(d) Prior to the conveyance of any residential unit within a conversion condominium, other than a conveyance to a declarant or affiliate of a declarant: (i) The declarant shall establish and maintain, during the one-year warranty period provided under (c) of this subsection, an account containing a sum equal to ten percent of the actual cost of making the repairs required under (b) of this subsection; (ii) during the one-year warranty period, the funds in such account shall be used exclusively for paying the actual cost of making repairs required, or for otherwise satisfying claims made, under such warranty; (iii) following the expiration of the one-year warranty period, any funds remaining in such account shall be immediately disbursed to the declarant; and (iv) the declarant shall notify in writing the association and such city or county as to the location of such account and any disbursements therefrom: ~~((and))~~

(e) A declarant shall pay relocation assistance ~~((not to exceed five hundred dollars per unit shall be paid)), in an amount determined by the city or county, which in no event may exceed a total of the sum for three months' rent of the tenant's unit as specified in the applicable lease or rental agreement, to tenants and subtenants:~~

(i) Who elect not to purchase a unit ~~((and))~~;  
(ii) Who are in lawful occupancy for residential purposes of a unit; and  
(iii) Whose ~~((monthly))~~ annual household income from all sources, on the date of the notice described in subsection (1) of this section, was less than an amount equal to eighty percent of ~~((+))~~;

(A) The ~~((monthly))~~ annual median family income ~~((for comparably sized households))~~ in the ~~((standard))~~ metropolitan statistical area, as defined and established by the United States department of housing and urban development, in which the condominium is located, as adjusted for household size according to the method used for income limits by the department; or ~~((+))~~

(B) If the condominium is not within a ~~((standard))~~ metropolitan statistical area, the ~~((monthly))~~ annual median family income ~~((for comparably sized households))~~ in the state of Washington, as defined and determined by ~~((said))~~ the United States department of housing and urban development, and as adjusted for household size according to the method used for income limits by the department.

The household size of a unit shall be based on the number of persons actually in lawful occupancy of the unit. The tenant or subtenant actually in lawful occupancy of the unit shall be entitled to the relocation assistance. A requirement for relocation assistance under this subsection (6)(e) is authorized whether or not it may be considered a tax. The declarant shall provide to the city or county a copy of the notice required under subsection (1)(a) of this section at the same time the notice is provided to the tenants or subtenants. The declarant shall also provide other notices and documentation that the city or county may require by ordinance or rule to administer the relocation

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

assistance requirement and verify compliance under this section. Relocation assistance shall be paid on or before the date the tenant or subtenant vacates and shall be in addition to any damage deposit or other compensation or refund to which the tenant is otherwise entitled. Unpaid rent or other amounts owed by the tenant or subtenant to the landlord may be offset against the relocation assistance; and

(f) Except as authorized under (g) of this subsection (6), a declarant and any dealer shall not begin any construction, remodeling, or repairs to any interior portion of an occupied building that is to be converted to a condominium or the lot on which the conversion condominium is located during the one hundred twenty-day notice period provided for in RCW 64.34.440(1) unless all residential tenants and residential subtenants who have elected not to purchase a unit and who are in lawful occupancy in the building have vacated.

(g)(i) A declarant and any dealer is authorized to begin construction, remodeling, or repairs to interior portions of an occupied building under the following circumstances:

(A) To repair or remodel vacant units to be used as model units, provided that the repair and remodel is limited to one model for each unit type in the building;

(B) To repair or remodel a vacant unit or common area for use as a sales office; and

(C) The declarant or dealer has offered existing tenants an option to terminate an existing lease or rental agreement without cause or consequence pursuant to subsection (1)(c) of this section and at least one hundred twenty days have passed since tenants were notified of such option.

(ii) All work performed under this subsection shall not violate the tenant's or subtenant's rights of quiet enjoyment during the one hundred twenty-day notice period.

(7) Violations of any city or county ordinance adopted as authorized by subsection (6) of this section shall give rise to such remedies, penalties, and causes of action which may be lawfully imposed by such city or county. Such violations shall not invalidate the creation of the condominium or the conveyance of any interest therein.

**NEW SECTION. Sec. 3.** This act takes effect August 1, 2007.

**NEW SECTION. Sec. 4.** This act does not apply to any conversion condominiums for which a notice required under RCW 64.34.440(1) has been delivered before the effective date of this act."

On page 1, line 1 of the title, after "housing;" strike the remainder of the title and insert "amending RCW 64.34.440; adding a new chapter to Title 43 RCW; creating a new section; recodifying RCW 43.185.010, 43.185.015, 43.185.020, 43.185.030, 43.185.050, 43.185.060, 43.185.070, 43.185.074, 43.185.076, 43.185.080, 43.185.090, 43.185.100, 43.185.110, 43.185.120, 43.185.130, 43.185.900, 43.185.910, 43.185.911, 43.185A.010, 43.185A.020, 43.185A.030, 43.185A.040, 43.185A.050, 43.185A.060, 43.185A.070, 43.185A.080, 43.185A.090, 43.185A.100, 43.185A.900, 43.185A.901, 43.185A.902, 43.185B.005, 43.185B.007, 43.185B.009, 43.185B.010, 43.185B.020, 43.185B.030, 43.185B.040, 43.185B.900, 43.63A.650, 43.330.170, 35.21.685, 35.83.005, 35.83.010, 35.83.020, 35.83.030, 35.83.040, 35.83.050, 35.83.060, 35.83.070, 59.28.010, 59.28.020, 59.28.030, 59.28.040, 59.28.050, 59.28.060, 59.28.070, 59.28.080, 59.28.090, 59.28.100, 59.28.120, 59.28.130, 59.28.900, 59.28.901, 59.28.902, 43.63A.500, 43.63A.505, 43.330.165, 70.114.010, 70.114.020, 70.114A.010, 70.114A.020, 70.114A.030, 70.114A.040, 70.114A.045, 70.114A.050, 70.114A.060, 70.114A.065, 70.114A.070, 70.114A.081, 70.114A.085, 70.114A.100, 70.114A.110, 70.114A.900, 70.114A.901, 43.63A.610, 43.63A.620, 43.63A.630, 43.63A.640, 43.63A.645, 70.164.010, 70.164.020, 70.164.030, 70.164.040, 70.164.050, 70.164.060, 70.164.070, 70.164.900,

43.330.110, 43.63A.510, 35.21.687, 36.34.137, 43.20A.037, 47.12.063, 47.12.064, 72.09.055, and 43.19.19201; and providing an effective date."

Senator Weinstein spoke in favor of adoption of the committee striking amendment.

#### PARLIAMENTARY INQUIRY

Senator Honeyford: "Actually, I have two points of inquiry related to this amendment. First, this is a House bill and my understanding is that we may not offer substantive title amendments to a House bill. Secondly, I believe that the amendment offered is beyond the scope and object of the underlying bill and have some arguments to argue on that, Madam President. The underlying bill came over from the House and does nothing more than to re-codify certain statutes into a cohesive chapter entitled 'Forty-three' of the RCW. There's absolutely no policy change, changed or expressed in the bill and no substantive law is modified. It is simply a technical measure to collect all the affordable housing statutes, which are scattered throughout the code, into one section for ease of reference. By contrast, the amendment essentially puts what is in the language of Senate Bill No. 5031 into the House bill. Far from leading to codification, the language includes several substantive law, allowing local governments to set up relocation assistance programs, includes monetary amounts, notice provisions, language on condominiums, lease termination provisions and limitations on interior construction. This has nothing to do with recodifying affordable housing statutes and is clearly outside the subject matter of the underlying bill as it came from the House. For these reasons, believe the amendment offered is outside of the scope and object of the original bill. I also believe is inappropriate for the Senate to substantively amend the title of a House bill and I respectfully request a ruling on these two matters."

#### MOTION

On motion of Senator Eide, further consideration of House Bill No. 1187 was deferred and the bill held its place on the second reading calendar.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1233, by House Committee on Health Care & Wellness (originally sponsored by Representatives Ericks, Kirby, Roach, Williams, Jarrett and Simpson)

Addressing specified disease, hospital confinement, or other fixed payment insurance.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 48.43.005 and 2006 c 25 s 16 are each amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

(2) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(3) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(4) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(5) "Catastrophic health plan" means:

(a) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand five hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand dollars; and

(b) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least five thousand five hundred dollars; or

(c) Any health benefit plan that provides benefits for hospital inpatient and outpatient services, professional and prescription drugs provided in conjunction with such hospital inpatient and outpatient services, and excludes or substantially limits outpatient physician services and those services usually provided in an office setting.

(6) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(7) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(8) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(9) "Dependent" means, at a minimum, the enrollee's legal spouse and unmarried dependent children who qualify for coverage under the enrollee's health benefit plan.

(10) "Eligible employee" means an employee who works on a full-time basis with a normal work week of thirty or more hours. The term includes a self-employed individual, including a sole proprietor, a partner of a partnership, and may include an independent contractor, if the self-employed individual, sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer, but does not work less than thirty hours per week and derives at least seventy-five percent of his or her income from a trade or business through which he or she has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form. Persons covered under a health benefit plan pursuant to the consolidated omnibus budget reconciliation act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements of chapter 265, Laws of 1995.

(11) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(12) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

(13) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care

providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(14) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding: (a) Denial of payment for medical services or nonprovision of medical services included in the covered person's health benefit plan, or (b) service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

(15) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(16) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(17) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(18) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.

(19) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease ~~((and)) or illness-triggered fixed payment insurance, hospital confinement ((indemnity when marketed solely as a supplement to a health plan)) fixed payment insurance, or other fixed payment insurance offered as an independent, noncoordinated benefit;~~

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage; and

(l) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

(20) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(21) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(22) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(23) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(24) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that, on at least fifty percent of its working days during the preceding calendar quarter, employed at least two but no more than fifty eligible employees, with a normal work week of thirty or more hours, the majority of whom were employed within this state, and is not formed primarily for purposes of buying health insurance and in which a bona fide employer-employee relationship exists. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor must derive at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year except for a self-employed individual or sole proprietor in an agricultural trade or business, who must derive at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year. A self-employed individual or sole proprietor who is covered as a group of one on the day prior to June 10, 2004, shall also be considered a "small employer" to the extent that individual or group of one is entitled to have his or her coverage renewed as provided in RCW 48.43.035(6).

(25) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(26) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

**NEW SECTION. Sec. 2.** A new section is added to chapter 48.20 RCW to read as follows:

The commissioner shall adopt rules setting forth the content of a standard disclosure form to be provided to all applicants for individual, illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance. The standard disclosure shall provide information regarding the level, type, and amount of benefits provided and

the limitations, exclusions, and exceptions under the policy, as well as additional information to enhance consumer understanding. The disclosure shall specifically disclose that the coverage is not comprehensive in nature and will not cover the cost of most hospital and other medical services. Such disclosure form must be filed for approval with the commissioner prior to use. The standard disclosure forms must be provided at the time of solicitation and completion of the application form. All advertising and marketing materials other than the standard disclosure form must be filed with the commissioner at least thirty days prior to use.

**NEW SECTION. Sec. 3.** A new section is added to chapter 48.20 RCW to read as follows:

Illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance policies are not considered to provide coverage for hospital or medical expenses under this chapter, if the benefits provided are a fixed dollar amount that is paid regardless of the amount charged. The benefits may not be related to, or be a percentage of, the amount charged by the provider of service and must be offered as an independent and noncoordinated benefit with any other health plan as defined in RCW 48.43.005(19).

**NEW SECTION. Sec. 4.** A new section is added to chapter 48.21 RCW to read as follows:

The commissioner shall adopt rules setting forth the content of a standard disclosure form to be delivered to all applicants for group illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance. The standard disclosure shall provide information regarding the level, type, and amount of benefits provided and the limitations, exclusions, and exceptions under the policy, as well as additional information to enhance consumer understanding. The disclosure shall specifically disclose that the coverage is not comprehensive in nature and will not cover the cost of most hospital and other medical services. Such disclosure form must be filed for approval with the commissioner prior to use. The standard disclosure form must be provided to the master policyholders at the time of solicitation and completion of the application and to all enrollees at the time of enrollment. All advertising and marketing materials other than the standard disclosure form must be filed with the commissioner at least thirty days prior to use.

**NEW SECTION. Sec. 5.** A new section is added to chapter 48.21 RCW to read as follows:

Illness-triggered fixed payment insurance, hospital confinement fixed payment insurance, or other fixed payment insurance policies are not considered to provide coverage for hospital or medical expenses or care under this chapter, if the benefits provided are a fixed dollar amount that is paid regardless of the amount charged. The benefits may not be related to, or be a percentage of, the amount charged by the provider of service and must be offered as an independent and noncoordinated benefit with any other health plan as defined in RCW 48.43.005(19).

**NEW SECTION. Sec. 6.** A new section is added to chapter 48.43 RCW to read as follows:

The commissioner shall collect information from insurers offering fixed payment insurance products, and report aggregated data for each calendar year, including the number of groups purchasing the products, the number of enrollees, and the number of consumer complaints filed. The reports shall be provided to the legislature annually to reflect the calendar year experience, and the initial report shall reflect calendar year 2008 and be due no later than June 1, 2009, and each June thereafter."

Senator Keiser spoke in favor of adoption of the committee striking amendment.

The President Pro Tempore declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 1233.

The motion by Senator Keiser carried and the committee

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

striking amendment was adopted by voice vote.

ROLL CALL

## MOTION

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

On page 1, line 2 of the title, after "insurance;" strike the remainder of the title and insert "amending RCW 48.43.005; adding new sections to chapter 48.20 RCW; adding new sections to chapter 48.21 RCW; and adding a new section to chapter 48.43 RCW."

## MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1233 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Keiser spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of Substitute House Bill No. 1233 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1233 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Fairley and Pflug - 2

SUBSTITUTE HOUSE BILL NO. 1233 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1236, by Representatives Roach, Kirby, Simpson and Moeller

Establishing certain capital and surplus requirements necessary to transact insurance.

The measure was read the second time.

## MOTION

On motion of Senator Berkey, the rules were suspended, House Bill No. 1236 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Berkey and Benton spoke in favor of passage of the bill.

## MOTION

On motion of Senator Regala, Senator Prentice was excused.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1236.

The Secretary called the roll on the final passage of House Bill No. 1236 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Fairley, Pflug and Prentice - 3

HOUSE BILL NO. 1236, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

HOUSE BILL NO. 1235, by Representatives Kirby and Roach

Providing confidentiality to certain insurance commissioner examinations.

The measure was read the second time.

## MOTION

On motion of Senator Berkey, the rules were suspended, House Bill No. 1235 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Berkey and Benton spoke in favor of passage of the bill.

The President Pro Tempore declared the question before the Senate to be the final passage of House Bill No. 1235.

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1235 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Fairley and Pflug - 2

HOUSE BILL NO. 1235, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## MOTION

At 11:48 a.m., on motion of Senator Eide, the Senate was recessed until 1:15 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:15 p.m. by President Pro Tempore.

## SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

## MOTION

Senator Spanel moved that Gubernatorial Appointment No. 9058, Barbara Rofkar, as a member of the Board of Trustees, Whatcom Community College District No. 21, be confirmed.

Senator Spanel spoke in favor of the motion.

## MOTION

On motion of Senator Regala, Senator Pridemore was excused.

## MOTION

On motion of Senator Brandland, Senators Benton, Clements, Hewitt, McCaslin, Morton, Pflug, Schoesler and Swecker were excused.

## APPOINTMENT OF BARBARA ROFKAR

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9058, Barbara Rofkar as a member of the Board of Trustees, Whatcom Community College District No. 21.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9058, Barbara Rofkar as a member of the Board of Trustees, Whatcom Community College District No. 21 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Benton, Clements, Pflug and Pridemore - 4

Gubernatorial Appointment No. 9058, Barbara Rofkar, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Whatcom Community College District No. 21.

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Spanel moved that Gubernatorial Appointment No. 9082, Steven Adelstein, as a member of the Board of Trustees, Whatcom Community College District No. 21, be confirmed.

Senator Spanel spoke in favor of the motion.

## APPOINTMENT OF STEVEN ADELSTEIN

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9082, Steven Adelstein as a member of the Board of Trustees, Whatcom Community College District No. 21.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9082, Steven Adelstein as a member of the Board of Trustees, Whatcom Community College District No. 21 and the appointment was confirmed by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist,

Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Pflug - 1

Gubernatorial Appointment No. 9082, Steven Adelstein, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Whatcom Community College District No. 21.

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Spanel moved that Gubernatorial Appointment No. 9174, Charles Robinson, as a member of the Board of Trustees, Whatcom Community College District No. 21, be confirmed.

Senator Spanel spoke in favor of the motion.

## APPOINTMENT OF CHARLES ROBINSON

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9174, Charles Robinson as a member of the Board of Trustees, Whatcom Community College District No. 21.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9174, Charles Robinson as a member of the Board of Trustees, Whatcom Community College District No. 21 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Absent: Senator Morton - 1

Excused: Senator Pflug - 1

Gubernatorial Appointment No. 9174, Charles Robinson, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Whatcom Community College District No. 21.

## SECOND READING

## CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

## MOTION

Senator Spanel moved that Gubernatorial Appointment No. 9201, Susan Cole, as a member of the Board of Trustees, Whatcom Community College District No. 21, be confirmed.

Senator Spanel spoke in favor of the motion.

## APPOINTMENT OF SUSAN COLE

The President Pro Tempore declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9201, Susan Cole as a member of the Board of Trustees, Whatcom Community College District No. 21.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9201, Susan Cole as a member of the Board of Trustees, Whatcom Community College District No. 21 and the appointment was confirmed by the following

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

Gubernatorial Appointment No. 9201, Susan Cole, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Whatcom Community College District No. 21.

#### MOTION

At 1:43 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 3:27 p.m. by President Owen

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mr. Ravdan Bold, the Ambassador of Mongolia, to the United States who was seated at the rostrum.

With permission of the Senate, business was suspended to allow the Ambassador Bold to address the Senate.

#### REMARKS BY AMBASSADOR BOLD

Ambassador Bold: "Thank you so much. I'm Ambassador from Mongolia to the United States so I represent the people of Mongolia to your great nation, so this time I bring greetings from the Mongolian people. And this time I'm looking for new opportunities which could be had between the state of Washington and Mongolia. We are proud very much being the strong hold of democracy in inner Asia investment. So I found a lot of opportunities in terms of tourism, agriculture, for corporation between the Mongolia and state of Washington. So with this opportunity, I would like all of you please to visit Mongolia. Mongolia is still the less known to the American public but we are doing our best to fix this problem. Thank you so much for your attention."

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1276, by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives Linville, McDonald, Dunshee, Chase, Upthegrove, Strow, Dunn, Haler, VanDeWege, McCune, Kenney, Roberts and Morrell)

Creating a public-private tourism partnership.

The measure was read the second time.

#### MOTION

Senator Kastama moved that the following committee amendment by the Committee on Economic Development, Trade & Management be adopted.

On page 2, line 13, after "least", strike "one", and insert "two"

On page 2, line 14, after "nominees", insert "per position"

Senator Kastama spoke in favor of adoption of the committee amendment.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Economic Development, Trade & Management to Substitute House Bill No. 1276.

The motion by Senator Kastama carried and the committee amendment was adopted by voice vote.

#### MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 1276 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kastama spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1276 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1276 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SUBSTITUTE HOUSE BILL NO. 1276 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2261, by House Committee on Select Committee on Environmental Health (originally sponsored by Representatives Campbell, Hudgins, Morrell, Hunt and Ormsby)

Providing for the evaluation of additional measures to reduce wood smoke emissions.

The measure was read the second time.

#### MOTION

Senator Brown moved that the following committee striking amendment by the Committee on Water, Energy & Telecommunications be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.94.473 and 2005 c 197 s 1 are each amended to read as follows:

(1) Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:

(a) Not burn wood in any solid fuel burning device whenever the department has determined under RCW 70.94.715 that any air pollution episode exists in that area;

(b) Not burn wood in any solid fuel burning device except those which are either Oregon department of environmental quality phase II or United States environmental protection agency certified or certified by the department under RCW 70.94.457(1) or a pellet stove either certified or issued an exemption by the United States environmental protection agency

EIGHTY-EIGHTH DAY, APRIL 5, 2007

in accordance with Title 40, Part 60 of the code of federal regulations, in the geographical area and for the period of time that a first stage of impaired air quality has been determined, by the department or any authority, for that area. A first stage of impaired air quality is reached when:

(i) Fine particulates are at an ambient level of thirty-five micrograms per cubic meter measured on a twenty-four hour average; and

(ii) Forecasted meteorological conditions are not expected to allow levels of fine particulates to decline below thirty-five micrograms per cubic meter for a period of forty-eight hours or more from the time that the fine particulates are measured at the trigger level; and

(c) Not burn wood in any solid fuel burning device in a geographical area and for the period of time that a second stage of impaired air quality has been determined by the department or any authority, for that area. A second stage of impaired air quality is reached when:

(i) A first stage of impaired air quality has been in force and not been sufficient to reduce the increasing fine (~~particulate~~ ~~particulate~~) particulate pollution trend;

(ii) Fine particulates are at an ambient level of sixty micrograms per cubic meter measured on a twenty-four hour average; and

(iii) Forecasted meteorological conditions are not expected to allow levels of fine particulates to decline below sixty micrograms per cubic meter for a period of forty-eight hours or more from the time that the fine particulates are measured at the trigger level.

(2) Until June 30, 2009, an authority comprised of one county east of the crest of the Cascade mountains with a population of equal to or greater than four hundred thousand people, may determine by rule an alternative ambient air level of fine particulates that defines when a first stage and when a second stage of impaired air quality exists under subsection (1) of this section. All other criteria of subsection (1) of this section continue to apply to a county subject to this subsection.

(3) Actions of the department and local air pollution control authorities under this section shall preempt actions of other state agencies and local governments for the purposes of controlling air pollution from solid fuel burning devices, except where authorized by chapter 199, Laws of 1991.

**NEW SECTION. Sec. 2.** A new section is added to chapter 70.94 RCW to read as follows:

The legislature finds that there are some communities in the state in which the national ambient air quality standards for PM 2.5 are exceeded, primarily due to wood smoke emissions, and that current strategies are not sufficient to reduce wood smoke emissions to levels that comply with the federal standards or adequately protect public health. The legislature finds that it is in the state's interest and to the benefit of the people of the state to evaluate additional measures to reduce wood smoke emissions and update the state wood smoke control program.

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

(1) The department shall convene and chair a work group to study the impacts of wood smoke from solid fuel burning devices on communities in Washington and make recommendations to the legislature on practical and cost-effective opportunities to reduce exposure to wood smoke from solid fuel burning devices and meet the new national air quality standards for fine particulates in Washington state. The work group shall be established by the director and include representatives from the department, the state department of health, regional air quality agencies, local health departments, related industry representatives, and nongovernmental health organizations. Recommendations may include statutory or regulatory changes, incentives, and other strategies that will reduce ambient PM 2.5 pollution. Recommendations should be presented to the governor and to the legislature by December 1, 2007.

(2) In carrying out its assignment the work group shall include, but not be limited to, the following considerations:

(a) Communities in the state that have elevated levels of PM 2.5 pollution;

2007 REGULAR SESSION

(b) The contribution of pollution from solid fuel burning devices to potential violations of federal air quality standards;

(c) Strategies used in other states, regions, or cities to reduce wood smoke pollution levels and effectiveness of these strategies;

(d) State laws, rules, fees, utility regulations, and other policies that may affect the ability to reduce emissions from solid fuel burning devices or encourage the use of cleaner burning devices; and

(e) Potential financial incentives and sources of funding to change out older solid fuel burning devices to cleaner burning devices."

Senator Brown spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Water, Energy & Telecommunications to Substitute House Bill No. 2261.

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

#### MOTION

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

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 70.94.473; and adding new sections to chapter 70.94 RCW."

#### MOTION

On motion of Senator Brown, the rules were suspended, Substitute House Bill No. 2261 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Brown spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Regala, Senator Kline was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2261 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2261 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 1; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Swecker, Tom and Weinstein - 36

Voting nay: Senators Delvin, Hatfield, Holmquist, Honeyford, McCaslin, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens and Zarelli - 12

Absent: Senator Clements - 1

SUBSTITUTE HOUSE BILL NO. 2261 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

STATEMENT FOR THE JOURNAL



EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

At the April 5, 2007 full floor session of the Senate, I received an emergency telephone call that I had to take off of the floor. As a result, I missed the vote on Substitute House Bill No. 2261, relating to wood smoke emissions. I oppose this measure and, had I been present to vote, I would have voted, "No" on final passage.

SENATOR JIM CLEMENTS, 14<sup>th</sup> Legislative District

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1916, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Ericksen, Moeller, Strow, Green, Haler, Appleton, Seaquist, Chase, Priest, McDermott, Walsh, Ormsby, Hasegawa, Fromhold, Kessler, Dunshee, Dunn, Sells, Wood, P. Sullivan, Kenney and Morrell)

Applying interest arbitration to certain care providers.

The measure was read the second time.

MOTION

Senator Kohl-Welles moved that the following committee striking amendment by the Committee on Labor, Commerce, Research & Development be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 41.56.465 and 1995 c 273 s 2 are each amended to read as follows:

(1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, ~~((†)) the panel shall ((take into consideration the following factors)) consider:~~

(a) The constitutional and statutory authority of the employer;

(b) Stipulations of the parties;

~~(c)((†) For employees listed in RCW 41.56.030(7) (a) through (d), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States;~~

~~((ii) For employees listed in RCW 41.56.030(7) (e) through (h), comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered;~~

~~((d)) The average consumer prices for goods and services, commonly known as the cost of living;~~

~~((†)) ((d)) Changes in any of the circumstances under (a) through ((†)) (c) of this subsection during the pendency of the proceedings; and~~

~~((†)) (c) Such other factors, not confined to the factors under (a) through ((†)) (d) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. For those employees listed in RCW 41.56.030(7)(a) who are employed by the governing body of a city or town with a population of less than fifteen thousand, or a county with a population of less than seventy thousand, consideration must also be given to regional differences in the cost of living.~~

(2) For employees listed in RCW 41.56.030(7) (a) through (d), the panel shall also consider a comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of like employers of similar size on the west coast of the United States.

(3) For employees listed in RCW 41.56.030(7) (e) through (h), the panel shall also consider a comparison of the wages, hours, and conditions of employment of personnel involved in the proceedings with the wages, hours, and conditions of employment of like personnel of public fire departments of similar size on the west coast of the United States. However, when an adequate number of comparable employers exists within the state of Washington, other west coast employers may not be considered.

(4) For employees listed in RCW 41.56.028:

(a) The panel shall also consider:

(i) A comparison of child care provider subsidy rates and reimbursement programs by public entities, including counties and municipalities, along the west coast of the United States; and

(ii) The financial ability of the state to pay for the compensation and benefit provisions of a collective bargaining agreement; and

(b) The panel may consider:

(i) The public's interest in reducing turnover and increasing retention of child care providers;

(ii) The state's interest in promoting, through education and training, a stable child care workforce to provide quality and reliable child care from all providers throughout the state; and

(iii) In addition, for employees exempt from licensing under chapter 74.15 RCW, the state's fiscal interest in reducing reliance upon public benefit programs including but not limited to medical coupons, food stamps, subsidized housing, and emergency medical services.

(5) For employees listed in RCW 74.39A.270:

(a) The panel shall consider:

(i) A comparison of wages, hours, and conditions of employment of publicly reimbursed personnel providing similar services to similar clients, including clients who are elderly, frail, or have developmental disabilities, both in the state and across the United States; and

(ii) The financial ability of the state to pay for the compensation and fringe benefit provisions of a collective bargaining agreement; and

(b) The panel may consider:

(i) A comparison of wages, hours, and conditions of employment of publicly employed personnel providing similar services to similar clients, including clients who are elderly, frail, or have developmental disabilities, both in the state and across the United States;

(ii) The state's interest in promoting a stable long-term care workforce to provide quality and reliable care to vulnerable elderly and disabled recipients;

(iii) The state's interest in ensuring access to affordable, quality health care for all state citizens; and

(iv) The state's fiscal interest in reducing reliance upon public benefit programs including but not limited to medical coupons, food stamps, subsidized housing, and emergency medical services.

(6) Subsections ((†)((†)) (2) and (3) of this section may not be construed to authorize the panel to require the employer to pay, directly or indirectly, the increased employee contributions resulting from chapter 502, Laws of 1993 or chapter 517, Laws of 1993 as required under chapter 41.26 RCW.

Sec. 2. RCW 41.56.028 and 2006 c 54 s 1 are each amended to read as follows:

(1) In addition to the entities listed in RCW 41.56.020, this chapter applies to the governor with respect to family child care providers. Solely for the purposes of collective bargaining and as expressly limited under subsections (2) and (3) of this section, the governor is the public employer of family child care providers who, solely for the purposes of collective bargaining, are public employees. The public employer shall be represented for bargaining purposes by the governor or the governor's designee appointed under chapter 41.80 RCW.

(2) This chapter governs the collective bargaining relationship between the governor and family child care providers, except as follows:

EIGHTY-EIGHTH DAY, APRIL 5, 2007

(a) A statewide unit of all family child care providers is the only unit appropriate for purposes of collective bargaining under RCW 41.56.060.

(b) The exclusive bargaining representative of family child care providers in the unit specified in (a) of this subsection shall be the representative chosen in an election conducted pursuant to RCW 41.56.070, except that in the initial election conducted under chapter 54, Laws of 2006, if more than one labor organization is on the ballot and none of the choices receives a majority of the votes cast, a run-off election shall be held.

(c) Notwithstanding the definition of "collective bargaining" in RCW 41.56.030(4), the scope of collective bargaining for child care providers under this section shall be limited solely to: (i) Economic compensation, such as manner and rate of subsidy and reimbursement, including tiered reimbursements; (ii) health and welfare benefits; (iii) professional development and training; (iv) labor-management committees; (v) grievance procedures; and (vi) other economic matters. Retirement benefits shall not be subject to collective bargaining. By such obligation neither party shall be compelled to agree to a proposal or be required to make a concession unless otherwise provided in this chapter.

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

(i) With respect to commencement of negotiations between the governor and the exclusive bargaining representative of family child care providers, negotiations shall be commenced initially upon certification of an exclusive bargaining representative under (a) of this subsection and, thereafter, by February 1st of any even-numbered year; and

(ii) ~~(In addition to the factors to be taken into consideration by an interest arbitration panel under RCW 41.56.465, the panel shall consider the financial ability of the state to pay for the compensation and benefit provisions of a collective bargaining agreement; and~~

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

(e) Family child care providers do not have the right to strike.

(3) Family child care providers who are public employees solely for the purposes of collective bargaining under subsection (1) of this section are not, for that reason, employees of the state for any purpose. This section applies only to the governance of the collective bargaining relationship between the employer and family child care providers as provided in subsections (1) and (2) of this section.

(4) This section does not create or modify:

(a) The parents' or legal guardians' right to choose and terminate the services of any family child care provider that provides care for their child or children;

(b) The secretary of the department of social and health services' right to adopt requirements under RCW 74.15.030, except for requirements related to grievance procedures and collective negotiations on personnel matters as specified in subsection (2)(c) of this section;

(c) Chapter 26.44 RCW, RCW 43.43.832, 43.20A.205, and 74.15.130; and

(d) The legislature's right to make programmatic modifications to the delivery of state services through child care subsidy programs, including standards of eligibility of parents, legal guardians, and family child care providers participating in child care subsidy programs, and the nature of services provided. The governor shall not enter into, extend, or renew any agreement under this section that does not expressly reserve the legislative rights described in this subsection (4)(d).

(5) Upon meeting the requirements of subsection (6) of this section, the governor must submit, as a part of the proposed biennial or supplemental operating budget submitted to the legislature under RCW 43.88.030, a request for funds necessary to implement the compensation and benefit provisions of a

collective bargaining agreement entered into under this section or for legislation necessary to implement such agreement.

(6) A request for funds necessary to implement the compensation and benefit provisions of a collective bargaining agreement entered into under this section shall not be submitted by the governor to the legislature unless such request has been:

(a) Submitted to the director of financial management by October 1st before the legislative session at which the request is to be considered, except that, for initial negotiations under this section, the request must be submitted by November 15, 2006; and

(b) Certified by the director of financial management as being feasible financially for the state or reflects the binding decision of an arbitration panel reached under this section.

(7) The legislature must approve or reject the submission of the request for funds as a whole. If the legislature rejects or fails to act on the submission, any such agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement.

(8) The governor shall periodically consult with the joint committee on employment relations established by RCW 41.80.010 regarding appropriations necessary to implement the compensation and benefit provisions of any collective bargaining agreement and, upon completion of negotiations, advise the committee on the elements of the agreement and on any legislation necessary to implement such agreement.

(9) After the expiration date of any collective bargaining agreement entered into under this section, all of the terms and conditions specified in any such agreement remain in effect until the effective date of a subsequent agreement, not to exceed one year from the expiration date stated in the agreement, except as provided in subsection (4)(d) of this section.

(10) If, after the compensation and benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(11) In enacting this section, the legislature intends to provide state action immunity under federal and state antitrust laws for the joint activities of family child care providers and their exclusive bargaining representative to the extent such activities are authorized by this chapter.

**Sec. 3.** RCW 74.39A.270 and 2006 c 106 s 1 are each amended to read as follows:

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

(2) Chapter 41.56 RCW governs the collective bargaining relationship between the governor and individual providers,

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

except as otherwise expressly provided in this chapter and except as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Labor, Commerce, Research & Development to Engrossed Substitute House Bill No. 1916.

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

#### MOTION

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

On page 1, line 2 of the title, after "providers;" strike the remainder of the title and insert "and amending RCW 41.56.465, 41.56.028, and 74.39A.270."

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Substitute House Bill No. 1916 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Zarelli spoke in favor of passage of the bill.

Senator Clements spoke against passage of the bill.

#### MOTION

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

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1916 as amended by the Senate.

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1916 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 43; Nays, 3; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 43

Voting nay: Senators Clements, Holmquist and Honeyford - 3

Excused: Senators Brown, Kline and Poulsen - 3

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1916 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1334, by House Committee on Appropriations (originally sponsored by Representatives Hinkle and Walsh)

Requiring the petitioner in a child welfare case to provide the court with relevant documentation.

The measure was read the second time.

## MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted.

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature finds that in order to allow courts to make well-informed placement decisions for children in the care of the state, the courts must have accurate information, including documentation supporting assertions or recommendations made by social workers, when appropriate.

**NEW SECTION. Sec. 2.** A new section is added to chapter 13.34 RCW to read as follows:

In any proceeding under this chapter, if the department submits a report to the court in which the department is recommending a particular placement, the department shall include the documents listed in subsections (1) through (4) of this section to the report. The department shall include only these relevant documents and shall not attach the entire history of the subject of the report.

(1) If the report contains a recommendation, opinion, or assertion by the department relating to substance abuse treatment, mental health treatment, anger management classes, or domestic violence classes, the department shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the progress report or evaluation submitted by the provider, but may not include the entire history with the provider.

(2) If the report contains a recommendation, opinion, or assertion by the department relating to visitation with a child, the department shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the most recent visitation report, a visitation report referencing a specific incident alleged in the report, or summary of the visitation prepared by the person who

supervised the visitation. The documentation attached to the report shall not include the entire visitation history.

(3) If the report contains a recommendation, opinion, or assertion by the department relating to the psychological status of a person, the department shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the progress report, evaluation, or summary submitted by the provider, but shall not include the entire history of the person.

(4) If the report contains a recommendation, opinion, or assertion by the department relating to injuries to a child, the department shall attach a summary of the physician's report relating to the recommendation, opinion, or assertion by the department.

(5) If the report contains a recommendation, opinion, or assertion by the department relating to the appropriateness or qualifications of a proposed placement, the department shall attach the document or documents upon which that recommendation, opinion, or assertion is based, including a home study or background check information, if applicable.

**NEW SECTION. Sec. 3.** This act shall be known and cited as the Rafael Gomez act.

**NEW SECTION. Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Senators Hargrove and Stevens spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Second Substitute House Bill No. 1334.

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

## MOTION

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

On page 1, line 1 of the title, after "proceedings;" strike the remainder of the title and insert "adding a new section to chapter 13.34 RCW; and creating new sections."

## MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 1334 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hargrove spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1334 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1334 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Brown, Kline and Poulsen - 3

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

SECOND SUBSTITUTE HOUSE BILL NO. 1334 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1333, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Hinkle, Kagi and Walsh)

Concerning child welfare protections.

The measure was read the second time.

## MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Human Services & Corrections be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 13.34.138 and 2005 c 512 s 3 are each amended to read as follows:

(1) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145(3) or 13.34.134. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits. This review shall consider both the agency's and parent's efforts that demonstrate consistent measurable progress over time in meeting the disposition plan requirements. The requirements for the initial review hearing, including the in-court requirement, shall be accomplished within existing resources. The supervising agency shall provide a foster parent, preadoptive parent, or relative with notice of, and their right to an opportunity to be heard in, a review hearing pertaining to the child, but only if that person is currently providing care to that child at the time of the hearing. This section shall not be construed to grant party status to any person who has been provided an opportunity to be heard.

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

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

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

department or supervising agency must promptly notify the court; and

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

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

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

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered;

(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration and preference has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

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

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

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

(vii) Whether additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

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

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

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

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

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

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

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

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

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

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

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

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

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

**Sec. 2.** RCW 13.34.025 and 2002 c 52 s 2 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

**NEW SECTION. Sec. 3.** A new section is added to chapter 26.44 RCW to read as follows:

(1) Each county shall revise and expand its existing child sexual abuse investigation protocol to address investigations of child fatality, child physical abuse, and criminal child neglect

cases and to incorporate the statewide guidelines for first responders to child fatalities developed by the criminal justice training commission. The protocols shall address the coordination of child fatality, child physical abuse, and criminal child neglect investigations between the county and city prosecutor's offices, law enforcement, children's protective services, local advocacy groups, emergency medical services, and any other local agency involved in the investigation of such cases. The protocol revision and expansion shall be developed by the prosecuting attorney in collaboration with the agencies referenced in this section.

(2) Revised and expanded protocols under this section shall be adopted and in place by July 1, 2008. Thereafter, the protocols shall be reviewed every two years to determine whether modifications are needed.

**NEW SECTION. Sec. 4.** A new section is added to chapter 43.101 RCW to read as follows:

(1) The commission, in consultation with the department of social and health services, the Washington association of sheriffs and police chiefs, and the Washington association of prosecuting attorneys, shall develop a curriculum related to child abuse and neglect to be included in the basic law enforcement training that must be successfully completed within the first fifteen months of employment of all law enforcement personnel.

(2) The curriculum must be incorporated into the basic law enforcement training program by July 1, 2008.

**NEW SECTION. Sec. 5.** (1) The joint legislative audit and review committee shall analyze gaps throughout the state in the availability and accessibility of services identified in the federal adoption and safe families act as it existed on the effective date of this section.

(2) The joint legislative audit and review committee shall submit to appropriate committees of the legislature a report and recommendations by December 1, 2007.

**NEW SECTION. Sec. 6.** A new section is added to chapter 13.34 RCW to read as follows:

(1) The administrative office of the courts, in consultation with the attorney general's office and the department of social and health services, shall compile an annual report, providing information about cases that fail to meet statutory guidelines to achieve permanency for dependent children.

(2) The administrative office of the courts shall submit the annual report required by this section to appropriate committees of the legislature by December 1st of each year, beginning on December 1, 2007.

**Sec. 7.** RCW 74.13.330 and 1990 c 284 s 23 are each amended to read as follows:

Foster parents are responsible for the protection, care, supervision, and nurturing of the child in placement. As an integral part of the foster care team, foster parents shall, if appropriate and they desire to: Participate in the development of the service plan for the child and the child's family; assist in family visitation, including monitoring; ~~((and))~~ model effective parenting behavior for the natural family; and be available to help with the child's transition back to the natural family.

**Sec. 8.** RCW 71.24.035 and 2006 c 333 s 201 are each 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:

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

(a) Develop a biennial state mental health program that incorporates regional biennial needs assessments and regional mental health service plans and state services for mentally ill adults and children. 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 in dependency cases, in the following order of priority: (i) The acutely mentally ill; (ii) chronically mentally ill adults and severely emotionally disturbed children; and (iii) the seriously disturbed. Such programs shall provide:

(A) Outpatient services;

(B) Emergency care services for twenty-four hours per day;

(C) Day treatment for mentally ill persons 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 mentally ill persons 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 minorities, the elderly, disabled, children, ((and)) low-income persons, and parents who are defendants 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, 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; and

(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.

(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 department shall distribute appropriated state and federal funds in accordance with any priorities, terms, or conditions specified in the appropriations act.

(14) 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.

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

Nothing in these plans shall be inconsistent with the intent and requirements of this chapter.

(15) 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.

(16) 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.

**NEW SECTION. Sec. 9.** This act may be known and cited as Sirita's law."

Senator Hargrove spoke in favor of adoption of the committee striking amendment.

#### MOTION

On motion of Senator Regala, Senator Prentice was excused.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Human Services & Corrections to Substitute House Bill No. 1333.

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

#### MOTION

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

On page 1, line 1 of the title, after "children;" strike the remainder of the title and insert "amending RCW 13.34.138, 13.34.025, 74.13.330, and 71.24.035; adding a new section to chapter 26.44 RCW; adding a new section to chapter 43.101 RCW; adding a new section to chapter 13.34 RCW; and creating new sections."

#### MOTION

On motion of Senator Hargrove, the rules were suspended, Substitute House Bill No. 1333 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1333 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1333 as amended by the Senate and

the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

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

Excused: Senators Brown, Kline, Poulsen and Prentice - 4

SUBSTITUTE HOUSE BILL NO. 1333 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2010, by House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Haigh, Hunt, Ericks, Conway, Haler, Green, Hasegawa, Appleton, Campbell, Sells, Kenney, VanDeWege, Cody, Hurst, McDermott, Simpson and Ormsby)

Providing responsible bidder criteria and related requirements for public works contracts.

The measure was read the second time.

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Substitute House Bill No. 2010 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rockefeller, Clements and Kohl-Welles spoke in favor of passage of the bill.

#### MOTION

On motion of Senator Regala, Senator Hargrove was excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2010.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2010 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

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

Voting nay: Senators Holmquist, Parlette and Stevens - 3

Excused: Senator Hargrove - 1

SUBSTITUTE HOUSE BILL NO. 2010, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED HOUSE BILL NO. 2105, by Representatives Conway, Condotta, Kenney, Simpson and Ormsby



EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

Requiring payment of prescription drugs for industrial insurance medical aid claims for initial visits.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed House Bill No. 2105 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Clements spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2105.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2105 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Hargrove - 1

ENGROSSED HOUSE BILL NO. 2105, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2049, by House Committee on Select Committee on Puget Sound (originally sponsored by Representatives Rolfes, Strow, Appleton, Hunt, Springer, McDermott, VanDeWege, Seaquist, McCoy, Eickmeyer and Lantz)

Authorizing the creation of marine resource committees.

The measure was read the second time.

#### MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be not adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds the challenge of developing realistic, effective, and efficient solutions to the conservation and management issues facing Puget Sound and Washington's outer coast requires calling on all available sources of knowledge and creative thinking available in the collective wisdom of Washington's citizens. The legislature further finds that both Puget Sound and the outer coast are dynamic and localized waterbodies with unique local challenges and unique local solutions. As such, it is essential for the future management of these ecosystems that citizens, through their local government, have a voice and an opportunity to share their dedication and interest in the well-being of their community's unique marine waters, while providing a valuable contribution to the statewide efforts aimed at restoring the outer coast and Puget Sound as a whole.

(2) The legislature further finds that federally led efforts to establish marine resource committees have proven to be an exciting vehicle for involving local citizens and community leaders in the future discussions, decisions, and restoration commitments in the waters most important to the community. The existing model of using a community-based, nonregulatory organization to examine issues particular to a community's corner of Puget Sound, applying for grants, and thoroughly and fairly investigating available options and solutions has proved to be a valuable asset to Puget Sound and its communities, and is worthy of replication throughout the Puget Sound basin and the outer coast.

(3) In this chapter, the legislature intends to establish a structure on which interested local communities can harness the dedication, creativity, and wisdom of their residents in the form of marine resource committees. These committees are intended to compliment, and not compete with or undermine, any other governmental efforts to restore and manage the Puget Sound. The legislature further intends that the department of fish and wildlife should apply the lessons learned from Puget Sound to work with county governments on the outer coast to establish marine resource committees.

**NEW SECTION. Sec. 2.** (1)(a) The legislative authority for each county that borders the marine waters of southern Puget Sound may establish marine resource committees consistent with the procedures outlined in section 3 of this act. Counties authorized to establish marine resource committees in the southern Puget Sound are: King, Pierce, Thurston, Kitsap, and Mason counties.

(b) The legislative authority for each county bordering the marine waters of the outer coast may develop a marine resource committee consistent with the procedures outlined in section 3 of this act. Counties authorized to establish marine resource committees on the outer coast are: Pacific, Grays Harbor, and Wahkiakum counties.

(c) Jefferson and Clallam counties may establish a new marine resource committee or a subcommittee of the county's existing marine resource committee, consistent with the procedures outlined in section 3 of this act, specifically to address the marine ecosystems for the outer coast or Puget Sound, where appropriate.

(2) The mission of a marine resource committee created under this section is to address, utilizing sound science, the needs of the marine ecosystem local to the county initiating the marine resource committee.

(3) A marine resource committee created under this section should review current data and resource conservation and management programs and make prioritized recommendations for additional measures that might be necessary to enhance protection of marine resources.

(4) The role of a marine resource committee in developing recommendations includes, but is not limited to:

(a) Utilizing existing data and, to the extent necessary, helping to gather new data on the health of local marine resources;

(b) Making scientifically based recommendations on local candidate sites for marine protected areas;

(c) Working closely with local and state officials to help implement recommendations of the marine resource committee;

(d) Promoting public outreach and education around marine resource conservation and management issues; and

(e) Engaging in any other activities that the initiating county deems appropriate.

**NEW SECTION. Sec. 3.** (1) A marine resource committee, as described in section 2 of this act, may be created by the legislative authority of any county bordering the marine waters of the outer coast or Puget Sound, in cooperation with all appropriate cities and special districts within their boundaries. Adjacent county legislative authorities shall coordinate their efforts whenever there is a mutual interest in creating a marine resource committee.

(2) A county may delegate the management and oversight of a marine resource committee created by the county under section 2 of this act to a city, or cities, within its jurisdiction, if the city

EIGHTY-EIGHTH DAY, APRIL 5, 2007

or cities are located on the marine waters of the outer coast or southern Puget Sound and are willing to accept the delegation.

(3) Participating county legislative authorities must select members of the marine resource committee, ensuring balanced representation from: Local government; scientific experts; affected economic interests; affected recreational interests; and environmental and conservation interests. Additionally, participating county legislative authorities must invite tribal representatives to participate in the marine resource committee. An initiating county may delegate its appointment authority to a city or cities that have received from the county the delegated responsibilities of managing and overseeing the marine resource committee.

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

**NEW SECTION. Sec. 4.** (1) The Puget Sound action team, or its successor organization, shall serve as the regional coordinating entity for marine resource committees created in the southern Puget Sound and the department of fish and wildlife shall serve as the regional coordinating entity for marine resource committees created for the outer coast.

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

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

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

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

(d) Assist marine resource committees with coordinating local projects to compliment regional priorities;

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

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

**NEW SECTION. Sec. 5.** Nothing in section 2 or 3 of this act is intended to expand or limit the authority of local marine resource committees established under the Northwest Straits marine conservation initiative by federal act in San Juan, Whatcom, Skagit, Island, Snohomish, Clallam, and Jefferson counties and existing as of the effective date of this section.

**NEW SECTION. Sec. 6.** Outer coast marine resource committees, in conjunction with their regional coordinating entity, shall meet and consult with key state, federal, local, and tribal governments, and private interest groups to develop a collaborative process to address ocean policy issues. This collaborative process should use Washington's "Ocean Action Plan: Enhancing Management of Washington State's Ocean and Outer Coasts" developed by the Washington ocean policy work group as a guide to begin the work of developing and coordinating state and local ocean policy and providing better management of Washington's coastal areas.

**NEW SECTION. Sec. 7.** Sections 1 through 6 of this act constitute a new chapter in Title 36 RCW."

On page 1, line 1 of the title, after "committees;" strike the remainder of the title and insert "and adding a new chapter to Title 36 RCW."

The President declared the question before the Senate to be the motion by Senator Jacobsen to not adopt the committee striking amendment by the Committee on Natural Resources, Ocean & Recreation to Substitute House Bill No. 2049.

The motion by Senator Jacobsen carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Jacobsen moved that the following striking amendment by Senator Rockefeller be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds the challenge of developing realistic, effective, and efficient solutions to the conservation and management issues facing Puget Sound and Washington's outer coast requires calling on all available sources of knowledge and creative thinking available in the collective wisdom of Washington's citizens. The legislature further finds that both Puget Sound and the outer coast are dynamic and localized waterbodies with unique local challenges and unique local solutions. As such, it is essential for the future management of these ecosystems that citizens, through their local government, have a voice and an opportunity to share their dedication and interest in the well-being of their community's unique marine waters, while providing a valuable contribution to the statewide efforts aimed at restoring the outer coast and Puget Sound as a whole.

(2) The legislature further finds that federally led efforts to establish marine resources committees have proven to be an exciting vehicle for involving local citizens and community leaders in the future discussions, decisions, and restoration commitments in the waters most important to the community. The existing model of using a community-based, nonregulatory organization to examine issues particular to a community's corner of Puget Sound, applying for grants, and thoroughly and fairly investigating available options and solutions has proved to be a valuable asset to Puget Sound and its communities, and is worthy of replication throughout the Puget Sound basin and the outer coast.

(3) In this chapter, the legislature intends to establish a structure on which interested local communities can harness the dedication, creativity, and wisdom of their residents in the form of marine resources committees. These committees are intended to complement, and not compete with or undermine, any other governmental efforts to restore and manage the Puget Sound. The legislature further intends that the department of fish and wildlife should apply the lessons learned from Puget Sound to work with county governments on the outer coast to establish marine resources committees.

**NEW SECTION. Sec. 2.** (1)(a) The legislative authority for each county that borders the marine waters of southern Puget Sound may establish marine resources committees consistent with the procedures outlined in section 3 of this act. Counties authorized to establish marine resources committees in the southern Puget Sound are: King, Pierce, Thurston, Kitsap, and Mason counties.

(b) The legislative authority for each county bordering the marine waters of the outer coast may develop a marine resources committee consistent with the procedures outlined in section 3 of this act. Counties authorized to establish marine resources committees on the outer coast are: Pacific, Grays Harbor, and Wahkiakum counties.

(c) Jefferson and Clallam counties may establish a new marine resources committee or a subcommittee of the county's existing marine resources committee, consistent with the procedures outlined in section 3 of this act, specifically to address the marine ecosystems for the outer coast or Puget Sound, where appropriate.

(2) The mission of a marine resources committee created under this section is to address, utilizing sound science, the needs of the marine ecosystem local to the county initiating the marine resources committee.

(3) A marine resources committee created under this section should review current data and resource conservation and management programs and make prioritized recommendations for additional measures that might be necessary to enhance protection of marine resources.

(4) The role of a marine resources committee in developing recommendations includes, but is not limited to:

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

(a) Utilizing existing data and, to the extent necessary, helping to gather new data on the health of local marine resources;

(b) Making scientifically based recommendations on local candidate sites for marine protected areas;

(c) Working closely with local and state officials to help implement recommendations of the marine resources committee;

(d) Promoting public outreach and education around marine resource conservation and management issues; and

(e) Engaging in any other activities that the initiating county deems appropriate.

**NEW SECTION. Sec. 3.** (1) A marine resources committee, as described in section 2 of this act, may be created by the legislative authority of any county bordering the marine waters of the outer coast or Puget Sound, in cooperation with all appropriate cities and special districts within their boundaries. Adjacent county legislative authorities shall coordinate their efforts whenever there is a mutual interest in creating a marine resources committee.

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

(3) Participating county legislative authorities must select members of the marine resources committee, ensuring balanced representation from: Local government; scientific experts; affected economic interests; affected recreational interests; and environmental and conservation interests. Additionally, participating county legislative authorities must invite tribal representatives to participate in the marine resources committee. An initiating county may delegate its appointment authority to a city or cities that have received from the county the delegated responsibilities of managing and overseeing the marine resources committee.

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

**NEW SECTION. Sec. 4.** (1) The Puget Sound action team, or its successor organization, shall serve as the regional coordinating entity for marine resources committees created in the southern Puget Sound and the department of fish and wildlife shall serve as the regional coordinating entity for marine resources committees created for the outer coast.

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

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

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

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

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

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

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

**NEW SECTION. Sec. 5.** Nothing in section 2 or 3 of this act is intended to expand or limit the authority of local marine resources committees established under the Northwest Straits marine conservation initiative by federal act in San Juan, Whatcom, Skagit, Island, Snohomish, Clallam, and Jefferson

counties and existing as of the effective date of this section.

**NEW SECTION. Sec. 6.** Outer coast marine resources committees, in conjunction with their regional coordinating entity, shall meet and consult with key state, federal, local, and tribal governments, and private interest groups to develop a collaborative process to address ocean policy issues. This collaborative process should use Washington's "Ocean Action Plan: Enhancing Management of Washington State's Ocean and Outer Coasts" developed by the Washington ocean policy work group as a guide to begin the work of developing and coordinating state and local ocean policy and providing better management of Washington's coastal areas.

**NEW SECTION. Sec. 7.** Sections 1 through 6 of this act constitute a new chapter in Title 36 RCW."

Senator Jacobsen spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Rockefeller to Substitute House Bill No. 2049.

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

#### MOTION

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

On page 1, line 1 of the title, after "committees;" strike the remainder of the title and insert "and adding a new chapter to Title 36 RCW."

#### MOTION

On motion of Senator Jacobsen, the rules were suspended, Substitute House Bill No. 2049 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Jacobsen and Morton spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2049 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2049 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Hargrove - 1

SUBSTITUTE HOUSE BILL NO. 2049 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 2158, by House Committee on Finance (originally sponsored by Representatives

EIGHTY-EIGHTH DAY, APRIL 5, 2007

Hasegawa, Fromhold, O'Brien, Orcutt, Condotta, Ormsby, Roach, Kristiansen, Ericks, Curtis, Kenney and Moeller)

Concerning the sales of vehicles and associated services to nonresidents of Washington.

The measure was read the second time.

## MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 2158 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2158.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2158 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Hargrove - 1

SUBSTITUTE HOUSE BILL NO. 2158, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 1267, by House Committee on Transportation (originally sponsored by Representatives Wallace, Upthegrove, Lovick, Hankins and Dickerson)

Modifying commercial driver's license requirements.

The measure was read the second time.

## MOTION

Senator Murray moved that the following committee amendment by the Committee on Transportation be adopted.

On page 2, after line 17, insert the following:

"(c) If the applicant's primary use of a commercial driver's license is for any of the following, then the applicant shall pay a fee of no more than seventy-five dollars for each classified skill examination or combination of classified skill examinations whether conducted by the department or a third-party tester:

(i) Charitable, not for profit corporations that are federally supported head start programs; or

(ii) Charitable, not for profit corporations that support early childhood education and assistance programs as described in RCW 43.215.405(4)."

Re-number the sections consecutively and correct any internal references accordingly.

## MOTION

Senator Kauffman moved that the following amendment by Senators Kauffman and Haugen to the committee amendment be adopted.

2007 REGULAR SESSION

On page 1, line 7 of the amendment, after "(i)", strike, "Charitable," and insert "Public benefit"

On page 1, line 9 of the amendment, after "(ii)", strike, "Charitable," and insert "Public benefit"

Senator Kauffman spoke in favor of adoption of the amendment to the committee amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Kauffman and Haugen on page 1, line 7 to the committee amendment to Substitute House Bill No. 1267.

The motion by Senator Kauffman carried and the amendment to the committee amendment was adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee amendment by the Committee on Transportation as amended to Substitute House Bill No. 1267.

The motion by Senator Murray carried and the committee amendment as amended was adopted by voice vote.

## MOTION

On motion of Senator Murray, the rules were suspended, Substitute House Bill No. 1267 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Murray spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1267 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1267 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 6; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 42

Voting nay: Senators Benton, Holmquist, Honeyford, Schoesler, Sheldon and Stevens - 6

Excused: Senator Hargrove - 1

SUBSTITUTE HOUSE BILL NO. 1267 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SUBSTITUTE HOUSE BILL NO. 2304, by House Committee on Appropriations (originally sponsored by Representatives Morrell, Quall, McDonald, Bailey, Grant, Walsh, Haler, McCune, Seaquist, McDermott, Kenney, Cody, Darneille, Dunn, Schual-Berke, Kessler, Conway, Springer, Hudgins, Green, Blake, Rodne, Goodman, Campbell, VanDeWege, Williams, Hunter, Takko and Moeller)

Providing for the issuance of a certificate of need for certain cardiac care services.

The measure was read the second time.

## MOTION

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

Senator Marr moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 70.38 RCW to read as follows:

To promote the stability of Washington's cardiac care delivery system, by July 1, 2008, the department of health shall adopt rules establishing criteria for the issuance of a certificate of need under this chapter for the performance of elective percutaneous coronary interventions at hospitals that do not otherwise provide on-site cardiac surgery.

Prior to initiating rule making, the department shall contract for an independent evidence-based review of the circumstances under which elective percutaneous coronary interventions should be allowed in Washington at hospitals that do not otherwise provide on-site cardiac surgery. The review shall address, at a minimum, factors related to access to care, patient safety, quality outcomes, costs, and the stability of Washington's cardiac care delivery system and of existing cardiac care providers, and ensure that elective coronary intervention volumes at the University of Washington academic medical center are maintained at levels required for training of cardiologists consistent with applicable accreditation requirements. The department shall consider the results of this review, and any associated recommendations, in adopting these rules.

**"NEW SECTION. Sec. 2.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 2304.

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

## MOTION

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

On page 1, line 2 of the title, after "services;" strike the remainder of the title and insert "adding a new section to chapter 70.38 RCW; and creating a new section."

## MOTION

On motion of Senator Marr, the rules were suspended, Substitute House Bill No. 2304 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Marr and Keiser spoke in favor of passage of the bill.

Senator Pflug spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2304 as amended by the Senate.

## ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2304 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-

Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Voting nay: Senators Pflug and Schoesler - 2

Excused: Senator Hargrove - 1

SUBSTITUTE HOUSE BILL NO. 2304 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

## SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1506, by House Committee on Capital Budget (originally sponsored by Representatives Haigh, Armstrong, Hunt and Ormsby)

Changing alternative works provisions.

The measure was read the second time.

## MOTION

Senator Rockefeller moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted.

Strike everything after the enacting clause and insert the following:

**"Sec. 1.** RCW 39.10.010 and 1994 c 132 s 1 are each amended to read as follows:

The legislature finds that the traditional process of awarding public works contracts in lump sum to the lowest responsible bidder is a fair and objective method of selecting a contractor. However, under certain circumstances, alternative public works contracting procedures may best serve the public interest if such procedures are implemented in an open and fair process based on objective and equitable criteria. The purpose of this chapter is to authorize the use of certain supplemental alternative public works contracting procedures (~~by state agencies and large municipalities under limited circumstances~~), to prescribe appropriate requirements to ensure that such contracting procedures serve the public interest, and to establish a process for evaluation of such contracting procedures.

PART 1  
GENERAL PROVISIONS

**Sec. 101.** RCW 39.10.020 and 2005 c 469 s 3 are each amended to read as follows:

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

(1) "Alternative public works contracting procedure" means the design-build (~~and the~~) general contractor/construction manager, and job order contracting procedures authorized in RCW 39.10.051 (~~and~~) 39.10.061, and 39.10.130 (~~as recodified by this act~~), respectively. (~~Public bodies eligible to enter into agreements with service providers for the furnishing of services in connection with water pollution control facilities under the authority of chapter 70.150 RCW may elect to use either RCW 39.10.051 and 39.10.061 or chapter 70.150 RCW as their method of procurement for such services.~~)

(2) ("Public body" means the state department of general administration, the University of Washington, Washington State University, every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755 and specifically authorized as provided in RCW 39.10.120(4), every county with a population greater than four hundred fifty thousand, every port district with total revenues greater than fifteen million dollars per year, every public hospital district with total revenues greater than fifteen million dollars per year utilizing the design-build procedure authorized by RCW 39.10.051 and every public hospital district, regardless of total revenues, proposing projects

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

that are considered and approved by the public hospital district project review board under RCW 39.10.117; every public utility district with revenues from energy sales greater than twenty-three million dollars per year; those school districts proposing projects that are considered and approved by the school district project review board under RCW 39.10.115; and the state ferry system-)) "Board" means the capital projects advisory review board.

(3) ("~~Public works project~~" means any work for a public body within the definition of the term public work in RCW 39.04.010-)) "Committee" means the project review committee.

(4) "Design-build procedure" means a contract between a public body and another party in which the party agrees to both design and build the facility, portion of the facility, or other item specified in the contract.

(5) "Total contract cost" means the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, and the percent fee on the negotiated maximum allowable construction cost.

(6) "General contractor/construction manager" means a firm with which a public body has selected and negotiated a maximum allowable construction cost to provide services during the design phase and to act as construction manager and general contractor during the construction phase.

(7) "Job order contract" means a contract (~~between a public body or any school district and a registered or licensed contractor~~) in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which provides for the use of negotiated, definitive work orders for public works as defined in RCW 39.04.010.

~~((5))~~ (8) "Job order contractor" means a registered or licensed contractor awarded a job order contract.

~~((6))~~ (9) "Maximum allowable construction cost" means the maximum cost of the work to construct the project including a percentage for risk contingency, negotiated support services, and approved change orders.

(10) "Negotiated support services" means items a general contractor would normally manage or perform on a construction project including, but not limited to surveying, hoisting, safety enforcement, provision of toilet facilities, temporary heat, cleanup, and trash removal.

(11) "Percent fee" means the percentage amount to be earned by the general contractor/construction manager as overhead and profit.

(12) "Public body" means any general or special purpose government, including but not limited to state agencies, institutions of higher education, counties, cities, towns, ports, school districts, and special purpose districts.

(13) "Certified public body" means a public body certified to use design-build or general contractor/construction manager contracting procedures, or both, under section 107 of this act.

(14) "Public works project" means any work for a public body within the definition of "public work" in RCW 39.04.010.

(15) "Total project cost" means the cost of the project less financing and land acquisition costs.

(16) "Unit price book" means a book containing specific prices, based on generally accepted industry standards and information, where available, for various items of work to be performed by the job order contractor. The prices may include: All the costs of materials; labor; equipment; overhead, including bonding costs; and profit for performing the items of work. The unit prices for labor must be at the rates in effect at the time the individual work order is issued.

~~((7))~~ (17) "Work order" means an order issued for a definite scope of work to be performed pursuant to a job order contract.

**Sec. 102.** RCW 39.10.800 and 2005 c 377 s 1 are each amended to read as follows:

(1) The (~~capital projects advisory review~~) board is created in the department of general administration to provide an evaluation of public capital projects construction processes, including the impact of contracting methods on project outcomes, and to advise the legislature on policies related to (~~alternative~~) public works delivery methods.

(2)(a) The (~~capital projects advisory review~~) board shall consist of the following members appointed by the governor: (~~One~~) Two representatives from construction general contracting; one representative from the (~~design industries~~) architectural profession; one representative from the engineering profession; two representatives from construction specialty subcontracting; (~~one~~) two representatives from (~~a~~) construction trades labor organizations; one representative from the office of minority and women's business enterprises; one representative from a higher education institution; one representative from the department of general administration; two representatives from private industry; and one representative of a domestic insurer authorized to write surety bonds for contractors in Washington state. All appointed members must be (~~actively engaged in or authorized to use alternative~~) knowledgeable about public works contracting procedures.

(b) (~~Two~~) Three members shall be (~~at-large~~) positions representing different local public owners(~~— The two at-large positions shall serve on a rotating basis to be determined and appointed~~), selected by the association of Washington cities, the Washington state association of counties, and the Washington public ports association, respectively.

(c) One member shall be a (~~member of~~) representative from the public hospital districts (project review board), selected by (~~that board, who shall be nonvoting~~) the association of Washington public hospital districts.

(d) One member shall be a (~~member of the~~) representative from school districts (project review board), selected by (~~that board, who shall be nonvoting~~) the Washington state school directors' association.

(e) The (~~advisory review~~) board shall include two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives, and two members of the senate, one from each major caucus, appointed by the president of the senate. Legislative members are nonvoting.

(3) Members selected under subsection (2)(a) of this section shall serve for terms of four years, with the terms expiring on June 30th on the fourth year of the term. (~~However, in the case of the initial members, four members shall serve four-year terms, four members shall serve three-year terms, and three members shall serve a two-year term, with each of the terms expiring on June 30th of the applicable year. Appointees may be reappointed to serve more than one term.~~)

(4) The (~~capital projects advisory review~~) board chair is selected from among the appointed members by the majority vote of the voting members.

(5) Legislative members of the (~~capital projects advisory review~~) board shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members of the (~~capital projects advisory review~~) board, (~~including any subcommittee members, except those representing an employer or organization;~~) project review committee members, and subcommittee chairs shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(6) If a vacancy occurs of the appointive members of the board, the governor shall fill the vacancy 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.

(7) The (~~capital projects advisory review~~) board shall (~~convene as soon as practical after July 1, 2005, and may~~) meet as often as necessary (~~thereafter~~).

(8) (~~Capital projects advisory review~~) Board members are expected to consistently attend (~~review~~) board meetings. The chair of the (~~capital projects advisory review~~) board may ask the governor to remove any member who misses more than two meetings in any calendar year without cause.

(9) The department of general administration shall provide staff support as may be required for the proper discharge of the function of the (~~capital projects advisory review~~) board.

(10) The (~~capital projects advisory review~~) board may establish subcommittees as it desires and may invite

EIGHTY-EIGHTH DAY, APRIL 5, 2007

nonmembers of the (~~capital projects advisory review~~) board to serve as committee members.

(1) The board shall encourage participation from persons and entities not represented on the (~~capital projects advisory review~~) board.

**Sec. 103.** RCW 39.10.810 and 2005 c 377 s 2 are each amended to read as follows:

The (~~capital projects advisory review~~) board has the following powers and duties:

~~(1) Develop and recommend to the legislature criteria that may be used to determine effective and feasible use of alternative contracting procedures;~~

~~(2) Develop and recommend to the legislature qualification standards for general contractors bidding on alternative public works projects;~~

~~(3) Develop and recommend to the legislature policies to further enhance the quality, efficiency, and accountability of capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding expansion, continuation, elimination, or modification of the alternative public works contracting methods;~~

~~(4) Evaluate the use of existing contracting procedures and potential future use of other alternative contracting procedures including competitive negotiation contracts;~~

~~(5) Appoint members of the committee; and~~

~~(6) Develop and administer questionnaires designed to provide quantitative and qualitative data on alternative public works contracting procedures on which evaluations are based.~~

**NEW SECTION. Sec. 104.** PROJECT REVIEW COMMITTEE--CREATED. (1) The board shall establish a project review committee to review and approve public works projects using the design-build and general contractor/construction manager contracting procedures authorized in RCW 39.10.051 and 39.10.061 (as recodified by this act) and to certify public bodies as provided in section 107 of this act.

(2) The board shall, by a majority vote of the board, appoint persons to the committee who are knowledgeable in the use of the design-build and general contractor/construction manager contracting procedures. Appointments must represent a balance among the industries and public owners on the board listed in RCW 39.10.800 (as recodified by this act).

(a) When making initial appointments to the committee, the board shall consider for appointment former members of the school district project review board and the public hospital district project review board.

(b) Each member of the committee shall be appointed for a term of three years. However, for initial appointments, the board shall stagger the appointment of committee members so that the first members are appointed to serve terms of one, two, or three years from the date of appointment. Appointees may be reappointed to serve more than one term.

(c) The committee shall, by a majority vote, elect a chair and vice-chair for the committee.

(d) The committee chair may select a person or persons on a temporary basis as a nonvoting member if project specific expertise is needed to assist in a review.

(3) The chair of the committee, in consultation with the vice-chair, may appoint one or more panels of at least six committee members to carry out the duties of the committee. Each panel shall have balanced representation of the private and public sector representatives serving on the committee.

(4) Any member of the committee directly or indirectly affiliated with a submittal before the committee must recuse himself or herself from the committee consideration of that submittal.

(5) Any person who sits on the committee or panel is not precluded from subsequently bidding on or participating in projects that have been reviewed by the committee.

(6) The committee shall meet as often as necessary to ensure that certification and approvals are completed in a timely manner.

2007 REGULAR SESSION

**NEW SECTION. Sec. 105.** PROJECT REVIEW COMMITTEE DUTIES. The committee shall:

(1) Certify, or recertify, public bodies for a period of three years to use the design-build or general contractor/construction manager, or both, contracting procedures for projects with a total project cost of ten million dollars or more;

(2) Review and approve the use of the design-build or general contractor/construction manager contracting procedures on a project by project basis for public bodies that are not certified under section 107 of this act; and

(3) Review and approve the use of the general contractor/construction manager contracting procedure by certified public bodies for projects with a total project cost under ten million dollars.

**NEW SECTION. Sec. 106.** PROJECT REVIEW COMMITTEE MEETINGS--OPEN AND PUBLIC. (1) The committee shall hold regular public meetings to carry out its duties as described in section 105 of this act. Committee meetings are subject to chapter 42.30 RCW.

(2) The committee shall publish notice of its public meetings at least twenty days before the meeting in a legal newspaper circulated in the area where the public body seeking certification is located, or where each of the proposed projects under consideration will be constructed. All meeting notices must be posted on the committee's web site.

(3) The meeting notice must identify the public body that is seeking certification or project approval, and where applicable, a description of projects to be considered at the meeting. The notice must indicate when, where, and how the public may present comments regarding the committee's certification of a public body or approval of a project. Information submitted by a public body to be reviewed at the meeting shall be available on the committee's web site at the time the notice is published.

(4) The committee must allow for public comment on the appropriateness of certification of a public body or on the appropriateness of the use of the proposed contracting procedure and the qualifications of a public body to use the contracting procedure. The committee shall receive and record both written and oral comments at the public hearing.

**NEW SECTION. Sec. 107.** PROJECT REVIEW COMMITTEE--CERTIFICATION OF PUBLIC BODIES. (1) A public body may apply for certification to use the design-build or general contractor/construction manager contracting procedure, or both. Once certified, a public body may use the contracting procedure for which it is certified on individual projects with a total project cost over ten million dollars without seeking committee approval. The certification period is three years. A public body seeking certification must submit to the committee an application in a format and manner as prescribed by the committee. The application must include a description of the public body's qualifications, its capital plan during the certification period, and its intended use of alternative contracting procedures.

(2) To certify a public body, the committee shall determine that the public body:

(a) Has the necessary experience and qualifications to determine which projects are appropriate for using alternative contracting procedures;

(b) Has the necessary experience and qualifications to carry out the alternative contracting procedure including, but not limited to: (i) Project delivery knowledge and experience; (ii) personnel with appropriate construction experience; (iii) a management plan and rationale for its alternative public works projects; (iv) demonstrated success in managing public works projects; (v) demonstrated success in managing at least one general contractor/construction manager or design-build project within the previous five years; (vi) the ability to properly manage its capital facilities plan including, but not limited to, appropriate project planning and budgeting experience; and (vii) the ability to meet requirements of this chapter; and

(c) Has resolved any audit findings on previous public works projects in a manner satisfactory to the committee.

(3) The committee shall, if practicable, make its determination at the public meeting during which an application

EIGHTY-EIGHTH DAY, APRIL 5, 2007

for certification is reviewed. Public comments must be considered before a determination is made. Within ten business days of the public meeting, the committee shall provide a written determination to the public body, and make its determination available to the public on the committee's web site.

(4) The committee may revoke any public body's certification upon a finding, after a public hearing, that its use of design-build or general contractor/construction manager contracting procedures no longer serves the public interest.

(5) The committee may renew the certification of a public body for one additional three-year period. The public body must submit an application for recertification at least three months before the initial certification expires. The application shall include updated information on the public body's capital plan for the next three years, its intended use of the procedures, and any other information requested by the committee. The committee must review the application for recertification at a meeting held before expiration of the applicant's initial certification period. A public body must reapply for certification under the process described in subsection (1) of this section once the period of recertification expires.

(6) Certified public bodies must submit project data information as required in RCW 39.10.070 (as recodified by this act) and section 302 of this act.

**NEW SECTION. Sec. 108. PROJECT REVIEW COMMITTEE--PROJECT APPROVAL PROCESS.** (1) A public body not certified under section 107 of this act must apply for approval from the committee to use the design-build or general contractor/construction manager contracting procedure on a project. A public body seeking approval must submit to the committee an application in a format and manner as prescribed by the committee. The application must include a description of the public body's qualifications, a description of the project, and its intended use of alternative contracting procedures.

(2) To approve a proposed project, the committee shall determine that:

(a) The alternative contracting procedure will provide a substantial fiscal benefit or the use of the traditional method of awarding contracts in lump sum to the low responsive bidder is not practical for meeting desired quality standards or delivery schedules;

(b) The proposed project meets the requirements for using the alternative contracting procedure as described in section 201 or 301 of this act;

(c) The public body has the necessary experience or qualified team to carry out the alternative contracting procedure including, but not limited to: (i) Project delivery knowledge and experience; (ii) sufficient personnel with construction experience to administer the contract; (iii) a written management plan that shows clear and logical lines of authority; (iv) the necessary and appropriate funding and time to properly manage the job and complete the project; (v) continuity of project management team, including personnel with experience managing projects of similar scope and size to the project being proposed; and (vi) necessary and appropriate construction budget;

(d) For design-build projects, construction personnel independent of the design-build team are knowledgeable in the design-build process and are able to oversee and administer the contract; and

(e) The public body has resolved any audit findings related to previous public works projects in a manner satisfactory to the committee.

(3) The committee shall, if practicable, make its determination at the public meeting during which a submittal is reviewed. Public comments must be considered before a determination is made.

(4) Within ten business days after the public meeting, the committee shall provide a written determination to the public body, and make its determination available to the public on the committee's web site. If the committee fails to make a written determination within ten business days of the public meeting, the request of the public body to use the alternative contracting procedure on the requested project shall be deemed approved.

(5) The requirements of subsection (1) of this section also apply to certified public bodies seeking to use the general contractor/construction manager contracting procedure on projects with a total project cost of less than ten million dollars.

(6) Failure of the committee to meet within sixty calendar days of a public body's application to use an alternative contracting procedure on a project shall be deemed an approval of the application.

**NEW SECTION. Sec. 109. APPEAL PROCESS.** Final determinations by the committee may be appealed to the board within seven days by the public body or by an interested party. A written notice of an appeal must be provided to the committee and, as applicable, to the public body. The board shall resolve an appeal within forty-five days of receipt of the appeal and shall send a written determination of its decision to the party making the appeal and to the appropriate public body, as applicable. The public body shall comply with the determination of the board.

## PART 2 DESIGN-BUILD

**Sec. 201.** RCW 39.10.051 and 2003 c 352 s 2 and 2003 c 300 s 4 are each reenacted and amended to read as follows:

(1) ~~((Notwithstanding any other provision of law, and after complying with RCW 39.10.030, the following public bodies may utilize the design-build procedure of public works contracting for public works projects authorized under this section: The state department of general administration; the state ferry system; the University of Washington; Washington State University; every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755 and specifically authorized as provided in RCW 39.10.120(4); every county with a population greater than four hundred fifty thousand; every public utility district with revenues from energy sales greater than twenty-three million dollars per year; every public hospital district with total revenues greater than fifteen million dollars per year, and every port district with total revenues greater than fifteen million dollars per year. The authority granted to port districts in this section is in addition to and does not affect existing contracting authority under RCW 53.08.120 and 53.08.130. For the purposes of this section, "design-build procedure" means a contract between a public body and another party in which the party agrees to both design and build the facility, portion of the facility, or other item specified in the contract.~~

~~—(2) Public bodies authorized under this section)) Subject to the process in section 107 or 108 of this act, public bodies may utilize the design-build procedure for public works projects ((valued)) in which the total project cost is over ten million dollars and where:~~

~~(a) The design and construction activities ((or)), technologies, or schedule to be used are highly specialized and a design-build approach is critical in developing the construction methodology or implementing the proposed technology; or~~

~~(b) The project design is repetitive in nature and is an incidental part of the installation or construction; or~~

~~(c) Regular interaction with and feedback from facilities users and operators during design is not critical to an effective facility design.~~

~~(2) Subject to the process in section 107 or 108 of this act, public bodies may use the design-build procedure for parking garages, regardless of cost.~~

~~(3) ((Public bodies authorized under this section may also use)) The design-build procedure also may be used for the ((following projects that meet the criteria in subsection (2)(b) and (c) of this section:~~

~~—(a) The)) construction or erection of preengineered metal buildings or prefabricated modular buildings, regardless of cost((; or~~

~~—(b) The construction of new student housing projects valued over five million dollars.~~

~~—(4) Contracts for design-build services shall be awarded through a competitive process utilizing public solicitation of~~



EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

proposals for design-build services. The public body shall publish at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done, a notice of its request for proposals for design-build services and the availability and location of the request for proposal documents. The request for proposal documents shall include:

(a) A detailed description of the project including programmatic, performance, and technical requirements and specifications, functional and operational elements, minimum and maximum net and gross areas of any building, and, at the discretion of the public body, preliminary engineering and architectural drawings;

(b) The reasons for using the design-build procedure;

(c) A description of the qualifications to be required of the proposer including, but not limited to, submission of the proposer's accident prevention program;

(d) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors. Evaluation factors shall include, but not be limited to: Proposal price; ability of professional personnel; past performance on similar projects; ability to meet time and budget requirements; ability to provide a performance and payment bond for the project; recent, current, and projected work loads of the firm; location; and the concept of the proposal;

(e) The form of the contract to be awarded;

(f) The amount to be paid to finalists submitting best and final proposals who are not awarded a design-build contract; and

(g) Other information relevant to the project.

(5) The public body shall establish a committee to evaluate the proposals based on the factors, weighting, and process identified in the request for proposals. Based on its evaluation, the public body shall select not fewer than three nor more than five finalists to submit best and final proposals. The public body may, in its sole discretion, reject all proposals. Design-build contracts shall be awarded using the procedures in (a) or (b) of this subsection.

(a) Best and final proposals shall be evaluated and scored based on the factors, weighting, and process identified in the initial request for proposals. The public body may score the proposals using a system that measures the quality and technical merits of the proposal on a unit price basis. Final proposals may not be considered if the proposal cost is greater than the maximum allowable construction cost identified in the initial request for proposals. The public body shall initiate negotiations with the firm submitting the highest scored best and final proposal. If the public body is unable to execute a contract with the firm submitting the highest scored best and final proposal, negotiations with that firm may be suspended or terminated and the public body may proceed to negotiate with the next highest scored firm. Public bodies shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated.

(b) If the public body determines that all finalists are capable of producing plans and specifications that adequately meet project requirements, the public body may award the contract to the firm that submits the responsive best and final proposal with the lowest price.

(6) The firm awarded the contract shall provide a performance and payment bond for the contracted amount. The public body shall provide appropriate honorarium payments to finalists submitting best and final proposals who are not awarded a design-build contract. Honorarium payments shall be sufficient to generate meaningful competition among potential proposers on design-build projects.

(7) The authority provided to the state ferry system in this section is limited to projects concerning construction, renovation, preservation, demolition, and reconstruction of ferry terminals and associated land-based facilities) and is not subject to approval by the committee.

(4) Except for utility projects, the design-build procedure may not be used to procure operations and maintenance services for a period longer than three years. State agency projects that propose to use the design-build-operate-maintain procedure

shall submit cost estimates for the construction portion of the project consistent with the office of financial management's capital budget requirements. Operations and maintenance costs must be shown separately and must not be included as part of the capital budget request.

**Sec. 202.** RCW 39.10.080 and 1994 c 132 s 8 are each amended to read as follows:

Notwithstanding the provisions of RCW 39.04.015, a public body using the design-build contracting procedure is authorized to negotiate an adjustment to the lowest bid or proposal price for a public works project ((awarded under RCW 39.10.050 and 39.10.060)) based upon agreed changes to the contract plans and specifications under the following conditions:

(1) All responsive bids or proposal prices exceed the available funds, as certified by an appropriate fiscal officer;

(2) The apparent low-responsive bid or proposal does not exceed the available funds by the greater of one hundred twenty-five thousand dollars or two percent for projects valued over ten million dollars; and

(3) The negotiated adjustment will bring the bid or proposal price within the amount of available funds.

**Sec. 203.** RCW 39.10.070 and 1994 c 132 s 7 are each amended to read as follows:

(1) A public body utilizing the ((alternative public works)) design-build contracting procedure((s authorized under RCW 39.10.050 and 39.10.060)) shall provide for:

(a) ((The preparation of appropriate, complete, and coordinated design documents consistent with the procedure utilized;

(b) To the extent appropriate, an independent review of the contract documents through value engineering or constructability studies prior to bid or proposal solicitation;

(c)) Reasonable budget contingencies totaling not less than five percent of the anticipated contract value;

((d) To the extent appropriate, on-site architectural or engineering representatives during major construction or installation phases;

(e)) (b) Employment of staff or consultants with expertise and prior experience in the management of comparable projects; ((and

(f)) (c) Contract documents that include alternative dispute resolution procedures to be attempted prior to the initiation of litigation;

(d) Submission of project information, as required by the board; and

(e) Contract documents that require the contractor, subcontractors, and designers to submit project information required by the board.

(2) A public body utilizing the ((alternative public works)) design-build contracting procedure((s under RCW 39.10.050 and 39.10.060)) may provide incentive payments to contractors for early completion, cost savings, or other goals if such payments are identified in the request for proposals.

**NEW SECTION. Sec. 204. DESIGN-BUILD CONTRACT AWARD.** (1) Contracts for design-build services shall be awarded through a competitive process using public solicitation of proposals for design-build services. The public body shall publish at least once in a legal newspaper of general circulation published in, or as near as possible to, that part of the county in which the public work will be done, a notice of its request for qualifications from proposers for design-build services, and the availability and location of the request for proposal documents. The request for qualifications documents shall include:

(a) A general description of the project that provides sufficient information for proposers to submit qualifications;

(b) The reasons for using the design-build procedure;

(c) A description of the qualifications to be required of the proposer including, but not limited to, submission of the proposer's accident prevention program;

(d) A description of the process the public body will use to evaluate qualifications and finalists' proposals, including evaluation factors and the relative weight of factors and any specific forms to be used by the proposers;

(i) Evaluation factors for request for qualifications shall include, but not be limited to, technical qualifications, such as

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

specialized experience and technical competence; capability to perform; past performance of the proposers' team, including the architect-engineer and construction members; and other appropriate factors. Cost or price-related factors are not permitted in the request for qualifications phase;

(ii) Evaluation factors for finalists' proposals shall include, but not be limited to, the factors listed in (d)(i) of this subsection, as well as technical approach design concept; proposal price; ability of professional personnel; past performance on similar projects; ability to meet time and budget requirements; ability to provide a performance and payment bond for the project; recent, current, and projected work loads of the firm; and location. Alternatively, if the public body determines that all finalists will be capable of producing a design that adequately meets project requirements, the public body may award the contract to the firm that submits the responsive proposal with the lowest price;

(e) The form of the contract to be awarded;

(f) The amount to be paid to finalists submitting responsive proposals and who are not awarded a design-build contract;

(g) The schedule for the procurement process and the project; and

(h) Other information relevant to the project.

(2) The public body shall establish an evaluation committee to evaluate the responses to the request for qualifications based on the factors, weighting, and process identified in the request for qualifications. Based on the evaluation committee's findings, the public body shall select not more than five responsive and responsible finalists to submit proposals. The public body may, in its sole discretion, reject all proposals and shall provide its reasons for rejection in writing to all proposers.

(3) Upon selection of the finalists, the public body shall issue a request for proposals to the finalists, which shall provide the following information:

(a) A detailed description of the project including programmatic, performance, and technical requirements and specifications; functional and operational elements; minimum and maximum net and gross areas of any building; and, at the discretion of the public body, preliminary engineering and architectural drawings; and

(b) The target budget for the design-build portion of the project.

(4) The public body shall establish an evaluation committee to evaluate the proposals submitted by the finalists. Design-build contracts shall be awarded using the procedures in (a) or (b) of this subsection. The public body must identify in the request for qualifications which procedure will be used.

(a) The finalists' proposals shall be evaluated and scored based on the factors, weighting, and process identified in the initial request for qualifications and in any addenda published by the public body. Public bodies may request best and final proposals from finalists. The public body shall initiate negotiations with the firm submitting the highest scored proposal. If the public body is unable to execute a contract with the firm submitting the highest scored proposal, negotiations with that firm may be suspended or terminated and the public body may proceed to negotiate with the next highest scored firm. Public bodies shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated.

(b) If the public body determines that all finalists are capable of producing a design that adequately meets project requirements, the public body may award the contract to the firm that submits the responsive proposal with the lowest price.

(5) The firm awarded the contract shall provide a performance and payment bond for the contracted amount. The public body shall provide appropriate honorarium payments to finalists submitting best and final proposals that are not awarded a design-build contract. Honorarium payments shall be sufficient to generate meaningful competition among potential proposers on design-build projects. In determining the amount of the honorarium, the public body shall consider the level of effort required to meet the selection criteria.

### PART 3

## GENERAL CONTRACTOR/CONSTRUCTION MANAGER

**Sec. 301.** RCW 39.10.061 and 2003 c 352 s 3 and 2003 c 300 s 5 are each reenacted and amended to read as follows:

~~((1) Notwithstanding any other provision of law, and after complying with RCW 39.10.030, a public body may utilize the general contractor/construction manager procedure of public works contracting for public works projects authorized under subsection (2) of this section. For the purposes of this section, "general contractor/construction manager" means a firm with which a public body has selected and negotiated a maximum allowable construction cost to be guaranteed by the firm, after competitive selection through formal advertisement and competitive bids, to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase.~~

~~— (2) Except those school districts proposing projects that are considered and approved by the school district project review board and those public hospital districts proposing projects that are considered and approved by the public hospital district project review board)) Subject to the process in section 107 or 108 of this act, public bodies ((authorized under this section)) may utilize the general contractor/construction manager procedure for public works projects ((valued over ten million dollars)) where:~~

~~((a)) (1) Implementation of the project involves complex scheduling ((requirements)), phasing, or coordination; ((or~~

~~— (b)) (2) The project involves construction at an ((existing)) occupied facility which must continue to operate during construction; ((or~~

~~— (c)) (3) The involvement of the general contractor/construction manager during the design stage is critical to the success of the project((-~~

~~— (3) Public bodies should select general contractor/construction managers early in the life of public works projects, and in most situations no later than the completion of schematic design.~~

~~— (4) Contracts for the services of a general contractor/construction manager under this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. The public solicitation of proposals shall include: A description of the project, including programmatic, performance, and technical requirements and specifications when available; the reasons for using the general contractor/construction manager procedure; a description of the qualifications to be required of the proposer, including submission of the proposer's accident prevention program; a description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors; the form of the contract to be awarded; the estimated maximum allowable construction cost; and the bid instructions to be used by the general contractor/construction manager finalists. Evaluation factors shall include, but not be limited to: Ability of professional personnel, past performance in negotiated and complex projects, and ability to meet time and budget requirements; the scope of work the general contractor/construction manager proposes to self-perform and its ability to perform it; location; recent, current, and projected work loads of the firm; and the concept of their proposal. A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, these finalists shall submit final proposals, including sealed bids for the percent fee, which is the percentage amount to be earned by the general contractor/construction manager as overhead and profit, on the estimated maximum allowable construction cost and the fixed amount for the detailed specified general conditions work. The public body shall select the firm submitting the highest scored final proposal using the evaluation factors and the relative~~

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

weight of factors published in the public solicitation of proposals:

~~(5) The maximum allowable construction cost may be negotiated between the public body and the selected firm after the scope of the project is adequately determined to establish a guaranteed contract cost for which the general contractor/construction manager will provide a performance and payment bond. The guaranteed contract cost includes the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, the percent fee on the negotiated maximum allowable construction cost, and sales tax. If the public body is unable to negotiate a satisfactory maximum allowable construction cost with the firm selected that the public body determines to be fair, reasonable, and within the available funds, negotiations with that firm shall be formally terminated and the public body shall negotiate with the next highest scored firm and continue until an agreement is reached or the process is terminated. If the maximum allowable construction cost varies more than fifteen percent from the bid estimated maximum allowable construction cost due to requested and approved changes in the scope by the public body, the percent fee shall be renegotiated.~~

~~(6) All subcontract work shall be competitively bid with public bid openings. When critical to the successful completion of a subcontract bid package and after publication of notice of intent to determine bidder eligibility in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public work will be done at least twenty days before requesting qualifications from interested subcontract bidders, the owner and general contractor/construction manager may determine subcontract bidding eligibility using the following evaluation criteria:~~

~~(a) Adequate financial resources or the ability to secure such resources;~~

~~(b) History of successful completion of a contract of similar type and scope;~~

~~(c) Project management and project supervision personnel with experience on similar projects and the availability of such personnel for the project;~~

~~(d) Current and projected workload and the impact the project will have on the subcontractor's current and projected workload;~~

~~(e) Ability to accurately estimate the subcontract bid package scope of work;~~

~~(f) Ability to meet subcontract bid package shop drawing and other coordination procedures;~~

~~(g) Eligibility to receive an award under applicable laws and regulations; and~~

~~(h) Ability to meet subcontract bid package scheduling requirements.~~

~~The owner and general contractor/construction manager shall weigh the evaluation criteria and determine a minimum acceptable score to be considered an eligible subcontract bidder.~~

~~After publication of notice of intent to determine bidder eligibility, subcontractors requesting eligibility shall be provided the evaluation criteria and weighting to be used by the owner and general contractor/construction manager to determine eligible subcontract bidders. After the owner and general contractor/construction manager determine eligible subcontract bidders, subcontractors requesting eligibility shall be provided the results and scoring of the subcontract bidder eligibility determination.~~

~~Subcontract bid packages shall be awarded to the responsible bidder submitting the low responsive bid. The requirements of RCW 39.30.060 apply to each subcontract bid package. All subcontractors who bid work over three hundred thousand dollars shall post a bid bond and all subcontractors who are awarded a contract over three hundred thousand dollars shall provide a performance and payment bond for their contract amount. All other subcontractors shall provide a performance and payment bond if required by the general contractor/construction manager. If a general contractor/construction manager receives a written protest from a subcontractor bidder, the general contractor/construction manager shall not execute a contract for the subcontract bid~~

~~package with anyone other than the protesting bidder without first providing at least two full business days' written notice of the general contractor/construction manager's intent to execute a contract for the subcontract bid package; provided that the protesting bidder submits notice in writing of its protest no later than two full business days following bid opening. Intermediate Saturdays, Sundays, and legal holidays are not counted. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project. Except as provided for under subsection (7) of this section, bidding on subcontract work by the general contractor/construction manager or its subsidiaries is prohibited. The general contractor/construction manager may negotiate with the low-responsive bidder in accordance with RCW 39.10.080 or, if unsuccessful in such negotiations, rebid.~~

~~(7) The general contractor/construction manager, or its subsidiaries, may bid on subcontract work if:~~

~~(a) The work within the subcontract bid package is customarily performed by the general contractor/construction manager;~~

~~(b) The bid opening is managed by the public body; and~~

~~(c) Notification of the general contractor/construction manager's intention to bid is included in the public solicitation of bids for the bid package.~~

~~In no event may the value of subcontract work performed by the general contractor/construction manager exceed thirty percent of the negotiated maximum allowable construction cost.~~

~~(8) A public body may include an incentive clause in any contract awarded under this section for savings of either time or cost or both from that originally negotiated. No incentives granted may exceed five percent of the maximum allowable construction cost. If the project is completed for less than the agreed upon maximum allowable construction cost, any savings not otherwise negotiated as part of an incentive clause shall accrue to the public body. If the project is completed for more than the agreed upon maximum allowable construction cost, excepting increases due to any contract change orders approved by the public body, the additional cost shall be the responsibility of the general contractor/construction manager.~~

~~(9) The authority provided to the state ferry system in this section is limited to projects concerning construction, renovation, preservation, demolition, and reconstruction of ferry terminals and associated land-based facilities);~~

~~(4) The project encompasses a complex or technical work environment; or~~

~~(5) The project requires specialized work on a building that has historic significance.~~

**NEW SECTION. Sec. 302. PROJECT MANAGEMENT AND CONTRACTING REQUIREMENTS.** (1) A public body using the general contractor/construction manager contracting procedure shall provide for:

(a) The preparation of appropriate, complete, and coordinated design documents;

(b) Confirmation that a constructability analysis of the design documents has been performed prior to solicitation of a subcontract bid package;

(c) Reasonable budget contingencies totaling not less than five percent of the anticipated contract value;

(d) To the extent appropriate, on-site architectural or engineering representatives during major construction or installation phases;

(e) Employment of staff or consultants with expertise and prior experience in the management of comparable projects, critical path method schedule review and analysis, and the administration, pricing, and negotiation of change orders;

(f) Contract documents that include alternative dispute resolution procedures to be attempted before the initiation of litigation;

(g) Contract documents that: (i) Obligate the public owner to accept or reject a request for equitable adjustment, change order, or claim within a specified time period but no later than sixty calendar days after the receipt by the public body of related documentation; and (ii) provide that if the public owner does not respond in writing to a request for equitable adjustment, change

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

order, or claim within the specified time period, the request is deemed denied;

(h) Submission of project information, as required by the board; and

(i) Contract documents that require the contractor, subcontractors, and designers to submit project information required by the board.

(2) A public body using the general contractor/construction manager contracting procedure may include an incentive clause for early completion, cost savings, or other performance goals if such incentives are identified in the request for proposals. No incentives granted may exceed five percent of the maximum allowable construction cost. No incentives may be paid from any contingency fund established for coordination of the construction documents or coordination of the work.

(3) If the construction is completed for less than the maximum allowable construction cost, any savings not otherwise negotiated as part of an incentive clause shall accrue to the public body. If the construction is completed for more than the maximum allowable construction cost, the additional cost is the responsibility of the general contractor/construction manager.

(4) If the public body and the general contractor/construction manager agree, in writing, on a price for additional work, the public body must issue a change order within thirty days of the written agreement. If the public body does not issue a change order within the thirty days, interest shall accrue on the dollar amount of the additional work satisfactorily completed until a change order is issued. The public body shall pay this interest at a rate of one percent per month.

**NEW SECTION. Sec. 303. CONTRACT AWARD.** (1) Public bodies should select general contractor/construction managers early in the life of public works projects, and in most situations no later than the completion of schematic design.

(2) Contracts for the services of a general contractor/construction manager under this section shall be awarded through a competitive process requiring the public solicitation of proposals for general contractor/construction manager services. The public solicitation of proposals shall include:

(a) A description of the project, including programmatic, performance, and technical requirements and specifications when available;

(b) The reasons for using the general contractor/construction manager procedure;

(c) A description of the qualifications to be required of the firm, including submission of the firm's accident prevention program;

(d) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors;

(e) The form of the contract, including any contract for reconstruction services, to be awarded;

(f) The estimated maximum allowable construction cost; and

(g) The bid instructions to be used by the general contractor/construction manager finalists.

(3) Evaluation factors for selection of the general contractor/construction shall include, but not be limited to:

(a) Ability of the firm's professional personnel;

(b) The firm's past performance in negotiated and complex projects;

(c) The firm's ability to meet time and budget requirements;

(d) The scope of work the firm proposes to self-perform and its ability to perform that work;

(e) The firm's proximity to the project location;

(f) Recent, current, and projected work loads of the firm; and

(g) The firm's approach to executing the project.

(4) A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, these finalists shall submit final proposals, including sealed bids for the percent fee on the estimated maximum allowable construction cost and the fixed amount for the general conditions work specified in the request for proposal. The public body shall select the firm submitting the highest scored

final proposal using the evaluation factors and the relative weight of factors published in the public solicitation of proposals. A public body shall not evaluate or disqualify a proposal based on the terms of a collective bargaining agreement.

(5) Public bodies may contract with the selected firm to provide services during the design phase that may include life-cycle cost design considerations, value engineering, scheduling, cost estimating, constructability, alternative construction options for cost savings, and sequencing of work, and to act as the construction manager and general contractor during the construction phase.

**NEW SECTION. Sec. 304. MAXIMUM ALLOWABLE CONSTRUCTION COST.** (1) The maximum allowable construction cost shall be used to establish a total contract cost for which the general contractor/construction manager shall provide a performance and payment bond. The maximum allowable construction cost shall be negotiated between the public body and the selected firm when the construction documents and specifications are at least ninety percent complete.

(2) Major bid packages may be bid in accordance with section 305 of this act before agreement on the maximum allowable construction cost between the public body and the selected general contractor/construction manager. The general contractor/construction manager may issue an intent to award to the responsible bidder submitting the lowest responsive bid.

(3) The public body may, at its option, authorize the general contractor/construction manager to proceed with the bidding and award of bid packages and construction before receipt of complete project plans and specifications. Any contracts awarded under this subsection shall be incorporated in the negotiated maximum allowable construction cost.

(4) The total contract cost includes the fixed amount for the detailed specified general conditions work, the negotiated maximum allowable construction cost, the negotiated support services, and the percent fee on the negotiated maximum allowable construction cost. Negotiated support services may be included in the specified general conditions at the discretion of the public body.

(5) If the public body is unable to negotiate a satisfactory maximum allowable construction cost with the firm selected that the public body determines to be fair, reasonable, and within the available funds, negotiations with that firm shall be formally terminated and the public body shall negotiate with the next highest scored firm and continue until an agreement is reached or the process is terminated.

(6) If the maximum allowable construction cost varies more than fifteen percent from the bid estimated maximum allowable construction cost due to requested and approved changes in the scope by the public body, the percent fee shall be renegotiated.

**NEW SECTION. Sec. 305. SUBCONTRACT BIDDING PROCEDURE.** (1) All subcontract work and equipment and material purchases shall be competitively bid with public bid openings. Subcontract bid packages and equipment and materials purchases shall be awarded to the responsible bidder submitting the lowest responsive bid. In preparing subcontract bid packages, the general contractor/construction manager shall not be required to violate or waive terms of a collective bargaining agreement.

(2) All subcontract bid packages in which bidder eligibility was not determined in advance shall include the specific objective criteria that will be used by the general contractor/construction manager and the public body to evaluate bidder responsibility. If the lowest bidder submitting a responsive bid is determined by the general contractor/construction manager and the public body not to be responsible, the general contractor/construction manager and the public body must provide written documentation to that bidder explaining their intent to reject the bidder as not responsible and afford the bidder the opportunity to establish that it is a responsible bidder. Responsibility shall be determined in accordance with criteria listed in the bid documents. Protests concerning bidder responsibility determination by the general

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

contractor/construction manager and the public body shall be in accordance with subsection (4) of this section.

(3) All subcontractors who bid work over three hundred thousand dollars shall post a bid bond. All subcontractors who are awarded a contract over three hundred thousand dollars shall provide a performance and payment bond for the contract amount. All other subcontractors shall provide a performance and payment bond if required by the general contractor/construction manager.

(4) If the general contractor/construction manager receives a written protest from a subcontractor bidder or an equipment or material supplier, the general contractor/construction manager shall not execute a contract for the subcontract bid package or equipment or material purchase order with anyone other than the protesting bidder without first providing at least two full business days' written notice to all bidders of the intent to execute a contract for the subcontract bid package. The protesting bidder must submit written notice of its protest no later than two full business days following the bid opening. Intermediate Saturdays, Sundays, and legal holidays are not counted.

(5) A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(6) The general contractor/construction manager may negotiate with the lowest responsible and responsive bidder to negotiate an adjustment to the lowest bid or proposal price based upon agreed changes to the contract plans and specifications under the following conditions:

(a) All responsive bids or proposal prices exceed the available funds, as certified by an appropriate fiscal officer;

(b) The apparent low responsive bid or proposal does not exceed the available funds by the greater of one hundred twenty-five thousand dollars or two percent for projects valued over ten million dollars; and

(c) The negotiated adjustment will bring the bid or proposal price within the amount of available funds.

(7) If the negotiation is unsuccessful, the subcontract work or equipment or material purchases must be rebid.

(8) The general contractor/construction manager must provide a written explanation if all bids are rejected.

**NEW SECTION. Sec. 306. GENERAL CONTRACTOR/CONSTRUCTION MANAGER SELF PERFORMANCE OF SUBCONTRACT WORK.** (1) Except as provided in this section, bidding on subcontract work or for the supply of equipment or materials by the general contractor/construction manager or its subsidiaries is prohibited.

(2) The general contractor/construction manager, or its subsidiaries, may bid on subcontract work or for the supply of equipment or materials if:

(a) The work within the subcontract bid package or equipment or materials is customarily performed or supplied by the general contractor/construction manager;

(b) The bid opening is managed by the public body and is in compliance with section 305 of this act; and

(c) Notification of the general contractor/construction manager's intention to bid is included in the public solicitation of bids for the bid package or for the equipment or materials.

(3) In no event may the general contractor/construction manager or its subsidiaries purchase equipment or materials for assignment to subcontract bid package bidders for installation or warranty. The value of subcontract work performed and equipment and materials supplied by the general contractor/construction manager may not exceed thirty percent of the negotiated maximum allowable construction cost. Negotiated support services performed by the general contractor/construction manager shall not be considered subcontract work for purposes of this subsection.

**NEW SECTION. Sec. 307. PREBID DETERMINATION OF SUBCONTRACTOR ELIGIBILITY.** (1) If determination of subcontractor eligibility prior to seeking bids is in the best interest of the project and critical to the successful completion of a subcontract bid package, the general contractor/construction manager and the public body may determine subcontractor

eligibility to bid. The general contractor/construction manager and the public body must:

(a) Conduct a hearing and provide an opportunity for any interested party to submit written and verbal comments regarding the justification for conducting bidder eligibility, the evaluation criteria, and weights for each criteria and subcriteria;

(b) Publish a notice of intent to evaluate and determine bidder eligibility in a legal newspaper published in or as near as possible to that part of the county where the public work will be constructed at least fourteen calendar days before conducting a public hearing;

(c) Ensure the public hearing notice includes the date, time, and location of the hearing, a statement justifying the basis and need for performing eligibility analysis before bid opening, and specific eligibility criteria and applicable weights given to each criteria and subcriteria that will be used during evaluation;

(d) After the public hearing, consider written and verbal comments received and determine if establishing bidder eligibility in advance of seeking bids is in the best interests of the project and critical to the successful completion of a subcontract bid package; and

(e) Issue a written final determination to all interested parties. All protests of the decision to establish bidder eligibility before issuing a subcontractor bid package must be filed with the superior court within seven calendar days of the final determination. Any modifications to the eligibility criteria and weights shall be based on comments received during the public hearing process and shall be included in the final determination.

(2) Determinations of bidder eligibility shall be in accordance with the evaluation criteria and weights for each criteria established in the final determination and shall be provided to interested persons upon request. Any potential bidder determined not to meet eligibility criteria must be afforded the opportunity to establish its eligibility. Protests concerning bidder eligibility determinations shall be in accordance with subsection (1) of this section.

**NEW SECTION. Sec. 308. SUBCONTRACT AGREEMENTS.** Subcontract agreements used by the general contractor/construction manager shall not:

(1) Delegate, restrict, or assign the general contractor/construction manager's implied duty not to hinder or delay the subcontractor. Nothing in this subsection (1) prohibits the general contractor/construction manager from requiring subcontractors not to hinder or delay the work of the general contractor/construction manager or other subcontractors and to hold subcontractors responsible for such damages;

(2) Delegate, restrict, or assign the general contractor/construction manager's authority to resolve subcontractor conflicts. The general contractor/construction manager may delegate or assign coordination of specific elements of the work, including: (a) The coordination of shop drawings among subcontractors; (b) the coordination among subcontractors in ceiling spaces and mechanical rooms; and (c) the coordination of a subcontractor's lower tier subcontractors. Nothing in this subsection prohibits the general contractor/construction manager from imposing a duty on its subcontractors to cooperate with the general contractor/construction manager and other subcontractors in the coordination of the work;

(3) Restrict the subcontractor's right to damages for changes to the construction schedule or work to the extent that the delay or disruption is caused by the general contractor/construction manager or entities acting for it. The general contractor/construction manager may require the subcontractor to provide notice that rescheduling or resequencing will result in delays or additional costs;

(4) Require the subcontractor to bear the cost of trade damage repair except to the extent the subcontractor is responsible for the damage. Nothing in this subsection (4) precludes the general contractor/construction manager from requiring the subcontractor to take reasonable steps to protect the subcontractor's work from trade damage; or

(5) Require the subcontractor to execute progress payment applications that waive claims for additional time or compensation or bond or retainage rights as a condition of

EIGHTY-EIGHTH DAY, APRIL 5, 2007

receipt of progress payment, except to the extent the subcontractor has received or will receive payment. Nothing in this section precludes the general contractor/construction manager from requiring the subcontractor to provide notice of claims for additional time or compensation as a condition precedent to right of recovery or to execute a full and final release, including a waiver of bond and retainage rights, as a condition of final payment.

#### PART 4 JOB ORDER CONTRACTING

**Sec. 401.** RCW 39.10.130 and 2003 c 301 s 1 are each amended to read as follows:

(1) The following public bodies are authorized to use the job order contracting procedure:

- (a) The department of general administration;
- (b) The University of Washington;
- (c) Washington State University;
- (d) Every city with a population greater than seventy thousand and any public authority chartered by such city under RCW 35.21.730 through 35.21.755;
- (e) Every county with a population greater than four hundred fifty thousand;
- (f) Every port district with total revenues greater than fifteen million dollars per year;
- (g) Every public utility district with revenues from energy sales greater than twenty-three million dollars per year;
- (h) Every school district; and
- (i) The state ferry system.

(2) The department of general administration may issue job order contract work orders for Washington state parks department projects.

(3) Public bodies may use a job order contract for public works projects when(:

(a) A public body has made)) a determination is made that the use of job order contracts will benefit the public by providing an effective means of reducing the total lead-time and cost for the construction of public works projects ((or) for repair and renovation required at public facilities through the use of unit price books and work orders by eliminating time-consuming, costly aspects of the traditional public works process, which require separate contracting actions for each small project(;

(b) The work order to be issued for a particular project does not exceed two hundred thousand dollars;

(c) Less than twenty percent of the dollar value of the work order consists of items of work not contained in the unit price book; and

(d) At least eighty percent of the job order contract must be subcontracted to entities other than the job order contractor.

(2) Public bodies shall award job order contracts through a competitive process utilizing public requests for proposals. Public bodies shall make an effort to solicit proposals from a certified minority or certified woman-owned contractor to the extent permitted by the Washington state civil rights act, RCW 49.60.400. The public body shall publish, at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which the public works will be done, a request for proposals for job order contracts and the availability and location of the request for proposal documents. The public body shall ensure that the request for proposal documents at a minimum includes:

(a) A detailed description of the scope of the job order contract including performance, technical requirements and specifications, functional and operational elements, minimum and maximum work order amounts, duration of the contract, and options to extend the job order contract;

(b) The reasons for using job order contracts;

(c) A description of the qualifications required of the proposer;

(d) The identity of the specific unit price book to be used;

(e) The minimum contracted amount committed to the selected job order contractor;

(f) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors. The public body shall ensure that evaluation factors include, but are not limited to, proposal price and the ability of the proposer to perform the job order contract. In evaluating the ability of the proposer to perform the job order contract, the public body may consider: The ability of the professional personnel who will work on the job order contract; past performance on similar contracts; ability to meet time and budget requirements; ability to provide a performance and payment bond for the job order contract; recent, current, and projected work loads of the proposer; location; and the concept of the proposal;

(g) The form of the contract to be awarded;

(h) The method for pricing renewals of or extensions to the job order contract;

(i) A notice that the proposals are subject to the provisions of RCW 39.10.100; and

(j) Other information relevant to the project.

(3) A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, the finalists shall submit final proposals, including sealed bids based upon the identified unit price book. Such bids may be in the form of coefficient markups from listed price book costs. The public body shall award the contract to the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors published in the public request for proposals.

(4) The public body shall provide a protest period of at least ten business days following the day of the announcement of the apparent successful proposal to allow a protester to file a detailed statement of the grounds of the protest. The public body shall promptly make a determination on the merits of the protest and provide to all proposers a written decision of denial or acceptance of the protest. The public body shall not execute the contract until two business days following the public body's decision on the protest.

(5) The public body shall issue no work orders until it has approved, in consultation with the office of minority and women's business enterprises or the equivalent local agency, a plan prepared by the job order contractor that equitably spreads certified women and minority business enterprise subcontracting opportunities, to the extent permitted by the Washington state civil rights act, RCW 49.60.400, among the various subcontract disciplines.

(6) Job order contracts may be executed for an initial contract term of not to exceed two years, with the option of extending or renewing the job order contract for one year. All extensions or renewals must be priced as provided in the request for proposals. The extension or renewal must be mutually agreed to by the public body and the job order contractor.

(7) The maximum total dollar amount that may be awarded under a job order contract shall not exceed three million dollars in the first year of the job order contract, five million dollars over the first two years of the job order contract, and, if extended or renewed, eight million dollars over the three years of the job order contract.

(8) For each job order contract, public bodies shall not issue more than two work orders equal to or greater than one hundred fifty thousand dollars in a twelve-month contract performance period.

(9) All work orders issued for the same project shall be treated as a single work order for purposes of the one hundred fifty thousand dollar limit on work orders in subsection (8) of this section and the two hundred thousand dollar limit on work orders in subsection (1)(b) of this section.

(10) Any new permanent, enclosed building space constructed under a work order shall not exceed two thousand gross square feet.

(11) Each public body may have no more than two job order contracts in effect at any one time.

(12) For purposes of chapters 39.08, 39.12, 39.76, and 60.28 RCW, each work order issued shall be treated as a separate contract. The alternate filing provisions of RCW

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

~~39.12.040(2) shall apply to each work order that otherwise meets the eligibility requirements of RCW 39.12.040(2).~~

~~(13) The requirements of RCW 39.30.060 do not apply to requests for proposals for job order contracts.~~

~~(14) Job order contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the rates in effect at the time the individual work order is issued.~~

~~(15) If, in the initial contract term, the public body, at no fault of the job order contractor, fails to issue the minimum amount of work orders stated in the public request for proposals, the public body shall pay the contractor an amount equal to the difference between the minimum work order amount and the actual total of the work orders issued multiplied by an appropriate percentage for overhead and profit contained in the general conditions for Washington state facility construction. This will be the contractor's sole remedy.~~

~~(16) All job order contracts awarded under this section must be executed before July 1, 2007, however the job order contract may be extended or renewed as provided for in this section.~~

~~(17) For purposes of this section, "public body" includes any school district).~~

**NEW SECTION. Sec. 402. CONTRACT AWARD.** (1) Job order contracts shall be awarded through a competitive process using public requests for proposals.

(2) The public body shall make an effort to solicit proposals from certified minority or certified woman-owned contractors to the extent permitted by the Washington state civil rights act, RCW 49.60.400.

(3) The public body shall publish, at least once in a statewide publication and legal newspaper of general circulation published in every county in which the public works project is anticipated, a request for proposals for job order contracts and the availability and location of the request for proposal documents. The public body shall ensure that the request for proposal documents at a minimum includes:

(a) A detailed description of the scope of the job order contract including performance, technical requirements and specifications, functional and operational elements, minimum and maximum work order amounts, duration of the contract, and options to extend the job order contract;

(b) The reasons for using job order contracts;

(c) A description of the qualifications required of the proposer;

(d) The identity of the specific unit price book to be used;

(e) The minimum contracted amount committed to the selected job order contractor;

(f) A description of the process the public body will use to evaluate qualifications and proposals, including evaluation factors and the relative weight of factors. The public body shall ensure that evaluation factors include, but are not limited to, proposal price and the ability of the proposer to perform the job order contract. In evaluating the ability of the proposer to perform the job order contract, the public body may consider: The ability of the professional personnel who will work on the job order contract; past performance on similar contracts; ability to meet time and budget requirements; ability to provide a performance and payment bond for the job order contract; recent, current, and projected work loads of the proposer; location; and the concept of the proposal;

(g) The form of the contract to be awarded;

(h) The method for pricing renewals of or extensions to the job order contract;

(i) A notice that the proposals are subject to RCW 39.10.100 (as recodified by this act); and

(j) Other information relevant to the project.

(4) A public body shall establish a committee to evaluate the proposals. After the committee has selected the most qualified finalists, the finalists shall submit final proposals, including sealed bids based upon the identified unit price book. Such bids may be in the form of coefficient markups from listed price book costs. The public body shall award the contract to the firm submitting the highest scored final proposal using the evaluation factors and the relative weight of factors published in the public

request for proposals and will notify the board of the award of the contract.

(5) The public body shall provide a protest period of at least ten business days following the day of the announcement of the apparent successful proposal to allow a protester to file a detailed statement of the grounds of the protest. The public body shall promptly make a determination on the merits of the protest and provide to all proposers a written decision of denial or acceptance of the protest. The public body shall not execute the contract until two business days following the public body's decision on the protest.

(6) The requirements of RCW 39.30.060 do not apply to requests for proposals for job order contracts.

**NEW SECTION. Sec. 403. JOB ORDER CONTRACT REQUIREMENTS.** (1) The maximum total dollar amount that may be awarded under a job order contract is four million dollars per year for a maximum of three years.

(2) Job order contracts may be executed for an initial contract term of not to exceed two years, with the option of extending or renewing the job order contract for one year. All extensions or renewals must be priced as provided in the request for proposals. The extension or renewal must be mutually agreed to by the public body and the job order contractor.

(3) A public body may have no more than two job order contracts in effect at any one time, with the exception of the department of general administration, which may have four job order contracts in effect at any one time.

(4) At least ninety percent of work contained in a job order contract must be subcontracted to entities other than the job order contractor. The job order contractor must distribute contracts as equitably as possible among qualified and available subcontractors including minority and woman-owned subcontractors to the extent permitted by law.

(5) The job order contractor shall publish notification of intent to perform public works projects at the beginning of each contract year in a statewide publication and in a legal newspaper of general circulation in every county in which the public works projects are anticipated.

(6) Job order contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the rates in effect at the time the individual work order is issued.

(7) If, in the initial contract term, the public body, at no fault of the job order contractor, fails to issue the minimum amount of work orders stated in the public request for proposals, the public body shall pay the contractor an amount equal to the difference between the minimum work order amount and the actual total of the work orders issued multiplied by an appropriate percentage for overhead and profit contained in the contract award coefficient for services as specified in the request for proposals. This is the contractor's sole remedy.

(8) All job order contracts awarded under this section must be signed before July 1, 2013; however the job order contract may be extended or renewed as provided for in this section.

(9) Public bodies may amend job order contracts awarded prior to July 1, 2007, in accordance with this chapter.

**NEW SECTION. Sec. 404. WORK ORDERS.** (1) The maximum dollar amount for a work order is three hundred fifty thousand dollars. For each job order contract, public bodies shall not issue more than two work orders equal to or greater than three hundred thousand dollars in a twelve-month contract period.

(2) All work orders issued for the same project shall be treated as a single work order for purposes of the dollar limit on work orders.

(3) No more than twenty percent of the dollar value of a work order may consist of items of work not contained in the unit price book.

(4) Any new permanent, enclosed building space constructed under a work order shall not exceed two thousand gross square feet.

(5) A public body may issue no work orders under a job order contract until it has approved, in consultation with the

EIGHTY-EIGHTH DAY, APRIL 5, 2007

office of minority and women's business enterprises or the equivalent local agency, a plan prepared by the job order contractor that equitably spreads certified women and minority business enterprise subcontracting opportunities, to the extent permitted by the Washington state civil rights act, RCW 49.60.400, among the various subcontract disciplines.

(6) For purposes of chapters 39.08, 39.12, 39.76, and 60.28 RCW, each work order issued shall be treated as a separate contract. The alternate filing provisions of RCW 39.12.040(2) apply to each work order that otherwise meets the eligibility requirements of RCW 39.12.040(2).

(7) The job order contract shall not be used for the procurement of architectural or engineering services not associated with specific work orders. Architectural and engineering services shall be procured in accordance with RCW 39.80.040.

**NEW SECTION. Sec. 405.** A public body shall provide to the board the following information for each job order contract at the end of each contract year:

- (1) A list of work orders issued;
- (2) The cost of each work order;
- (3) A list of subcontractors hired under each work order;
- (4) If requested by the board, a copy of the intent to pay prevailing wage and the affidavit of wages paid for each work order subcontract; and
- (5) Any other information requested by the board.

#### PART 5 OTHER PROVISIONS

**Sec. 501.** RCW 39.10.120 and 2001 c 328 s 5 are each amended to read as follows:

~~((1) Except as provided in subsections (2) and (3) of this section,)) The alternative public works contracting procedures authorized under this chapter are limited to public works contracts signed before July 1, ((2007)) 2013. Methods of public works contracting authorized ((by RCW 39.10.050 and 39.10.060 or 39.10.051 and 39.10.061)) under this chapter shall remain in full force and effect until completion of contracts signed before July 1, ((2007)) 2013.~~

~~((2) For the purposes of a baseball stadium as defined in RCW 82.14.0485, the design-build contracting procedures under RCW 39.10.050 shall remain in full force and effect until completion of contracts signed before December 31, 1997.~~

~~((3) For the purposes of a stadium and exhibition center, as defined in RCW 36.102.010, the design-build contracting procedures under RCW 39.10.050 or 39.10.051 shall remain in full force and effect until completion of contracts signed before December 31, 2002.~~

~~((4) A public authority chartered by a city that is a public body may utilize an alternative public works contracting procedure under this chapter only after receiving specific authorization on a project-by-project basis from the governing body of the city. For purposes of public authorities authorized to use alternative public works contracting procedures under this chapter, the city chartering any such public authority shall itself comply with RCW 39.10.030 on behalf of the public authority.))~~

**NEW SECTION. Sec. 502.** Projects approved by the school district project review board established under RCW 39.10.115, and the hospital district project review board established under RCW 39.10.117 before July 1, 2007, may proceed without the approval of the committee established in section 104 of this act. The board may grant an exemption from any provision of this act for projects advertised before the effective date of this section. A public body seeking an exemption must submit a request in writing to the board no later than December 31, 2007. The board must respond to the request within sixty calendar days.

**NEW SECTION. Sec. 503.** Projects using the design-build or general contractor/construction manager contracting procedures in which advertising for selection of a contractor has begun by the effective date of this section but no contract has been awarded may proceed without seeking approval of the committee under the processes in sections 107 and 108 of this act.

**Sec. 504.** RCW 60.28.011 and 2003 c 301 s 7 are each amended to read as follows:

(1) Public improvement contracts shall provide, and public bodies shall reserve, a contract retainage not to exceed five percent of the moneys earned by the contractor as a trust fund for the protection and payment of: (a) The claims of any person arising under the contract; and (b) the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from such contractor.

(2) Every person performing labor or furnishing supplies toward the completion of a public improvement contract shall have a lien upon moneys reserved by a public body under the provisions of a public improvement contract. However, the notice of the lien of the claimant shall be given within forty-five days of completion of the contract work, and in the manner provided in RCW 39.08.030.

(3) The contractor at any time may request the contract retainage be reduced to one hundred percent of the value of the work remaining on the project.

(a) After completion of all contract work other than landscaping, the contractor may request that the public body release and pay in full the amounts retained during the performance of the contract, and sixty days thereafter the public body must release and pay in full the amounts retained (other than continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of chapters 39.12 and 60.28 RCW.

(b) Sixty days after completion of all contract work the public body must release and pay in full the amounts retained during the performance of the contract subject to the provisions of chapters 39.12 and 60.28 RCW.

(4) The moneys reserved by a public body under the provisions of a public improvement contract, at the option of the contractor, shall be:

(a) Retained in a fund by the public body;

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association. Interest on moneys reserved by a public body under the provision of a public improvement contract shall be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body. When the moneys reserved are placed in escrow, the public body shall issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. This check shall be converted into bonds and securities chosen by the contractor and approved by the public body and the bonds and securities shall be held in escrow. Interest on the bonds and securities shall be paid to the contractor as the interest accrues.

(5) The contractor or subcontractor may withhold payment of not more than five percent from the moneys earned by any subcontractor or sub-subcontractor or supplier contracted with by the contractor to provide labor, materials, or equipment to the public project. Whenever the contractor or subcontractor reserves funds earned by a subcontractor or sub-subcontractor or supplier, the contractor or subcontractor shall pay interest to the subcontractor or sub-subcontractor or supplier at a rate equal to that received by the contractor or subcontractor from reserved funds.

(6) A contractor may submit a bond for all or any portion of the contract retainage in a form acceptable to the public body and from a bonding company meeting standards established by the public body. The public body shall accept a bond meeting these requirements unless the public body can demonstrate good cause for refusing to accept it. This bond and any proceeds therefrom are subject to all claims and liens and in the same manner and priority as set forth for retained percentages in this chapter. The public body shall release the bonded portion of the retained funds to the contractor within thirty days of accepting the bond from the contractor. Whenever a public body accepts a bond in lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or



EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

supplier to the subcontractor or supplier within thirty days of accepting the bond from the subcontractor or supplier.

(7) If the public body administering a contract, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in this case any amounts retained and accumulated under this section shall be held for a period of sixty days following the completion. In the event that the work is terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter are exclusive and shall supersede all provisions and regulations in conflict herewith.

(8) Whenever the department of transportation has contracted for the construction of two or more ferry vessels, sixty days after completion of all contract work on each ferry vessel, the department must release and pay in full the amounts retained in connection with the construction of the vessel subject to the provisions of RCW 60.28.020 and chapter 39.12 RCW. However, the department of transportation may at its discretion condition the release of funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes shall be certified or claims filed for work on the ferry after a period of sixty days following completion of the ferry; and if taxes are certified or claims filed, recovery may be had on the bond by the department of revenue and the materialmen and laborers filing claims.

(9) Except as provided in subsection (1) of this section, reservation by a public body for any purpose from the moneys earned by a contractor by fulfilling its responsibilities under public improvement contracts is prohibited.

(10) Contracts on projects funded in whole or in part by farmers home administration and subject to farmers home administration regulations are not subject to subsections (1) through (9) of this section.

(11) This subsection applies only to a public body that has contracted for the construction of a facility using the general contractor/construction manager procedure, as defined under RCW (~~39.10.061~~) 39.10.020 (as recodified by this act). If the work performed by a subcontractor on the project has been completed within the first half of the time provided in the general contractor/construction manager contract for completing the work, the public body may accept the completion of the subcontract. The public body must give public notice of this acceptance. After a forty-five day period for giving notice of liens, and compliance with the retainage release procedures in RCW 60.28.021, the public body may release that portion of the retained funds associated with the subcontract. Claims against the retained funds after the forty-five day period are not valid.

(12) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Contract retainage" means an amount reserved by a public body from the moneys earned by a person under a public improvement contract.

(b) "Person" means a person or persons, mechanic, subcontractor, or materialperson who performs labor or provides materials for a public improvement contract, and any other person who supplies the person with provisions or supplies for the carrying on of a public improvement contract.

(c) "Public body" means the state, or a county, city, town, district, board, or other public body.

(d) "Public improvement contract" means a contract for public improvements or work, other than for professional services, or a work order as defined in RCW 39.10.020 (as recodified by this act).

**Sec. 505.** RCW 70.150.070 and 2005 c 469 s 2 are each amended to read as follows:

RCW 70.150.030 through 70.150.060 shall be deemed to provide an additional method for the provision of services from and in connection with facilities and shall be regarded as supplemental and additional to powers conferred by other state laws and by federal laws. (~~(A public body that is also eligible to enter into agreements with service providers under the alternative public works contracting procedures in chapter 39.10 RCW may elect to use either RCW 39.10.051 and 39.10.061 or this chapter as its method of procurement for such services.)~~)

**NEW SECTION. Sec. 506.** A new section is added to chapter 43.131 RCW to read as follows:

The alternative works contracting procedures under chapter 39.10 RCW shall be terminated June 30, 2013, as provided in section 507 of this act.

**NEW SECTION. Sec. 507.** A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2014:

- (1) RCW 39.10.010 (as recodified by this act) and section 1 of this act & 1994 c 132 s 1;
- (2) RCW 39.10.020 (as recodified by this act) and section 101 of this act & 2005 c 469 s 3;
- (3) RCW 39.10.800 (as recodified by this act) and section 102 of this act & 2005 c 377 s 1;
- (4) RCW 39.10.810 (as recodified by this act) and section 103 of this act & 2005 c 377 s 2;
- (5) RCW 39.10.--- and section 104 of this act;
- (6) RCW 39.10.--- and section 105 of this act;
- (7) RCW 39.10.--- and section 106 of this act;
- (8) RCW 39.10.--- and section 107 of this act;
- (9) RCW 39.10.--- and section 108 of this act;
- (10) RCW 39.10.--- and section 109 of this act;
- (11) RCW 39.10.051 (as recodified by this act) and section 201 of this act, 2003 c 352 s 2, 2003 c 300 s 4, 2002 c 46 s 1, & 2001 c 328 s 2;
- (12) RCW 39.10.080 (as recodified by this act) and section 202 of this act & 1994 c 132 s 8;
- (13) RCW 39.10.070 (as recodified by this act) and section 203 of this act & 1994 c 132 s 7;
- (14) RCW 39.10.--- and section 204 of this act;
- (15) RCW 39.10.061 (as recodified by this act) and section 301 of this act, 2003 c 352 s 3, 2003 c 300 s 5, 2002 c 46 s 2, & 2001 c 328 s 3;
- (16) RCW 39.10.--- and section 302 of this act;
- (17) RCW 39.10.--- and section 303 of this act;
- (18) RCW 39.10.--- and section 304 of this act;
- (19) RCW 39.10.--- and section 305 of this act;
- (20) RCW 39.10.--- and section 306 of this act;
- (21) RCW 39.10.--- and section 307 of this act;
- (22) RCW 39.10.--- and section 308 of this act;
- (23) RCW 39.10.130 (as recodified by this act) and section 401 of this act & 2003 c 301 s 1;
- (24) RCW 39.10.--- and section 402 of this act;
- (25) RCW 39.10.--- and section 403 of this act;
- (26) RCW 39.10.--- and section 404 of this act;
- (27) RCW 39.10.--- and section 405 of this act;
- (28) RCW 39.10.100 (as recodified by this act) and 2005 c 274 s 275 & 1994 c 132 s 10;
- (29) RCW 39.10.090 (as recodified by this act) and 1994 c 132 s 9;
- (30) RCW 39.10.120 (as recodified by this act) and section 501 of this act & 2001 c 328 s 5;
- (31) RCW 39.10.--- and section 502 of this act;
- (32) RCW 39.10.--- and section 503 of this act;
- (33) RCW 39.10.900 (as recodified by this act) and 1994 c 132 s 13;
- (34) RCW 39.10.901 (as recodified by this act) and 1994 c 132 s 14; and
- (35) RCW 39.10.--- and section 510 of this act.

**NEW SECTION. Sec. 508.** RCW 39.10.902 (Repealer) and 2006 c 261 s 3 & 2005 c 469 s 5 are each repealed.

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

**NEW SECTION. Sec. 509.** The following acts or parts of acts are each repealed:

- (1) RCW 39.10.030 (Public notification and review process) and 1997 c 376 s 2 & 1994 c 132 s 3;
- (2) RCW 39.10.040 (Baseball stadium project--Alternative procedure may be used) and 1994 c 132 s 4;
- (3) RCW 39.10.063 (City demonstration projects--Conditions--Contract deadline) and 2005 c 377 s 3;
- (4) RCW 39.10.065 (Demonstration projects--Contract deadline--Transfer of authority to other public body) and 1997 c 376 s 5;
- (5) RCW 39.10.067 (School district capital demonstration projects--Conditions) and 2006 c 261 s 1, 2003 c 301 s 3, 2002 c 46 s 3, & 2000 c 209 s 3;
- (6) RCW 39.10.068 (Public hospital district capital demonstration projects--Conditions) and 2003 c 300 s 6;
- (7) RCW 39.10.115 (School district project review board--Established--Procedures) and 2006 c 261 s 2, 2001 c 328 s 4, & 2000 c 209 s 4; and
- (8) RCW 39.10.117 (Public hospital district project review board--Established--Procedures) and 2003 c 300 s 7.

**NEW SECTION. Sec. 510. PART HEADINGS AND CAPTIONS NOT LAW.** Part headings and captions used in this act are not any part of the law.

**NEW SECTION. Sec. 511.** The following sections are codified or recodified in chapter 39.10 RCW in the following order:

RCW 39.10.010  
 RCW 39.10.020  
 RCW 39.10.800  
 RCW 39.10.810  
 Section 104 of this act  
 Section 105 of this act  
 Section 106 of this act  
 Section 107 of this act  
 Section 108 of this act  
 Section 109 of this act  
 RCW 39.10.051  
 RCW 39.10.080  
 RCW 39.10.070  
 Section 204 of this act  
 RCW 39.10.061  
 Section 302 of this act  
 Section 303 of this act  
 Section 304 of this act  
 Section 305 of this act  
 Section 306 of this act  
 Section 307 of this act  
 Section 308 of this act  
 RCW 39.10.130  
 Section 402 of this act  
 Section 403 of this act  
 Section 404 of this act  
 Section 405 of this act  
 RCW 39.10.100  
 RCW 39.10.090  
 RCW 39.10.120  
 Section 502 of this act  
 Section 503 of this act  
 RCW 39.10.900  
 RCW 39.10.901  
 Section 510 of this act

**NEW SECTION. Sec. 512.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007, except for section 104 of this act, which takes effect immediately, and section 508 of this act, which takes effect June 30, 2007.

**NEW SECTION. Sec. 513.** 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."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the

Committee on Government Operations & Elections to Second Substitute House Bill No. 1506.

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

#### MOTION

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

On page 1, line 1 of the title, after "works;" strike the remainder of the title and insert "amending RCW 39.10.010, 39.10.020, 39.10.800, 39.10.810, 39.10.080, 39.10.070, 39.10.130, 39.10.120, 60.28.011, and 70.150.070; reenacting and amending RCW 39.10.051 and 39.10.061; adding new sections to chapter 43.131 RCW; adding new sections to chapter 39.10 RCW; recodifying RCW 39.10.010, 39.10.020, 39.10.800, 39.10.810, 39.10.051, 39.10.080, 39.10.070, 39.10.061, 39.10.130, 39.10.100, 39.10.090, 39.10.120, 39.10.900, and 39.10.901; repealing RCW 39.10.902, 39.10.030, 39.10.040, 39.10.063, 39.10.065, 39.10.067, 39.10.068, 39.10.115, and 39.10.117; providing effective dates; and declaring an emergency."

#### MOTION

On motion of Senator Rockefeller, the rules were suspended, Second Substitute House Bill No. 1506 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Rockefeller spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1506 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1506 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Absent: Senator Kline - 1

Excused: Senator Hargrove - 1

SECOND SUBSTITUTE HOUSE BILL NO. 1506 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

HOUSE BILL NO. 1311, by Representatives Grant, Hailey, McCoy, McDonald, Newhouse, Chase, Dickerson, Haler, Kenney, Springer and Morrell

Continuing the small farm direct marketing assistance program.

The measure was read the second time.

#### MOTION

On motion of Senator Eide, the rules were suspended, House Bill No. 1311 was advanced to third reading, the second

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

reading considered the third and the bill was placed on final passage.

Senator Rasmussen spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1311.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1311 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Hargrove - 1

HOUSE BILL NO. 1311, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1779, by House Committee on Appropriations (originally sponsored by Representatives Wallace, Dunn, Haigh, Kenney, Hasegawa, B. Sullivan, McDermott, Takko, Roberts, P. Sullivan, Fromhold, Quall, Simpson, Lantz, Hudgins, Kagi, Santos, Ormsby and Morrell)

Creating the GET ready for math and science scholarship program.

The measure was read the second time.

#### MOTION

Senator Shin moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The GET ready for math and science scholarship program is established. The purpose of the program is to provide scholarships to students who achieve level four on the mathematics or science portions of the tenth grade Washington assessment of student learning or achieve a score in the math section of the SAT or the math section of the ACT that is above the ninety-fifth percentile, major in a mathematics, science, or related field in college, and commit to working in mathematics, science, or a related field for at least three years in Washington following completion of their bachelor's degree. The program shall be administered by the nonprofit organization selected as the private partner in the public-private partnership.

(2) The total annual amount of each GET ready for math and science scholarship may vary, but shall not exceed the annual cost of resident undergraduate tuition fees and mandatory fees at the University of Washington. An eligible recipient may receive a GET ready for math and science scholarship for up to one hundred eighty quarter credits, or the semester equivalent, or for up to five years, whichever comes first.

(3) Scholarships shall be awarded only to the extent that state funds and private matching funds are available for that purpose in the GET ready for math and science account established in section 11 of this act.

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

(1) "Board" means the higher education coordinating board.

(2) "GET units" means tuition units under the advanced college tuition payment program in chapter 28B.95 RCW.

(3) "Institution of higher education" has the same meaning as in RCW 28B.92.030.

(4) "Program administrator" means the private nonprofit corporation that is registered under Title 24 RCW and qualified as a tax-exempt entity under section 501(c)(3) of the federal internal revenue code, that will serve as the private partner in the public-private partnership under this chapter.

(5) "Qualified program" or "qualified major" means a mathematics, science, or related degree program or major line of study offered by an institution of higher education that is included on the list of programs or majors selected by the board and the program administrator under section 10 of this act.

**NEW SECTION. Sec. 3.** (1) An eligible student is a student who:

(a) Is eligible for resident tuition and fee rates as defined in RCW 28B.15.012;

(b) Achieved level four on the mathematics or science portion of the tenth grade Washington assessment of student learning or achieved a score in the math section of the SAT or the math section of the ACT that is above the ninety-fifth percentile;

(c) Has a family income at or below one hundred twenty-five percent of the state median family income at the time the student applies for a GET ready for math and science scholarship and for up to the two previous years;

(d) Has declared an intention to complete a qualified program or qualified major or has entered a qualified program or declared a qualified major at an institution of higher education;

(e) Has declared an intention to work in a mathematics, science, or related field in Washington for at least three years immediately following completion of a bachelor's degree or higher degree.

(2) An eligible recipient is an eligible student who:

(a) Has been awarded a scholarship in accordance with the selection criteria and process established by the board and the program administrator;

(b) Enrolls at an institution of higher education within one year of graduating from high school;

(c) Maintains satisfactory academic progress, as defined by the institution of higher education where the student is enrolled;

(d) Takes at least one college-level mathematics or science course each term since enrolling in an institution of higher education; and

(e) Enters a qualified program or qualified major no later than the end of the first term in which the student has junior level standing.

**NEW SECTION. Sec. 4.** (1) If the student enrolls in a qualified program or declares a qualified major and the program or major is subsequently removed from the list of qualified programs and qualified majors by the board and the program administrator, the student's eligibility to receive a GET ready for math and science scholarship shall not be affected.

(2) If a student who received a GET ready for math and science scholarship ceases to be enrolled in an institution of higher education, withdraws or is no longer enrolled in a qualified program, declares a major that is not a qualified major, or otherwise is no longer eligible to receive a GET ready for math and science scholarship, the student shall notify the program administrator as soon as practicable and is not eligible for further GET ready for math and science scholarship awards. Such a student shall also repay the amount of the GET ready for math and science scholarship awarded to the student as required by section 5 of this act.

**NEW SECTION. Sec. 5.** (1) A recipient of a GET ready for math and science scholarship incurs an obligation to repay the scholarship, with interest and an equalization fee, if he or she does not:

(a) Graduate with a bachelor's degree from a qualified program or in a qualified major within five years of first enrolling at an institution of higher education; and

(b) Work in Washington in a mathematics, science, or related occupation full time for at least three years following completion of a bachelor's degree, unless he or she is enrolled in

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

a graduate degree program as provided in subsection (4) of this section.

(2) A former scholarship recipient who has earned a bachelor's degree shall annually verify to the board that he or she is working full time in a mathematics, science, or related field for three years.

(3) If a former scholarship recipient begins but then stops working full time in a mathematics, science, or related field within three years following completion of a bachelor's degree, he or she shall pay back a prorated portion of the amount of the GET ready for math and science scholarship award received by the recipient, plus interest and a prorated equalization fee.

(4) A recipient may postpone for up to three years his or her in-state work obligation if he or she enrolls full time in a graduate degree program in mathematics, science, or a related field.

**NEW SECTION. Sec. 6.** The office of the superintendent of public instruction shall:

(1) Notify elementary, middle, junior high, high school, and school district staff and administrators, and the children's administration of the department of social and health services about the GET ready for math and science scholarship program using methods in place for communicating with schools and school districts; and

(2) Provide data showing the race, ethnicity, income, and other available demographic information of students who achieve level four of the math and science Washington assessment of student learning in the tenth grade. Compare those data with comparable information on the tenth grade student population as a whole. Submit a report with the analysis to the committees responsible for education and higher education in the legislature on December 1st of even-numbered years.

**NEW SECTION. Sec. 7.** The board shall:

(1) Purchase GET units to be owned and held in trust by the board, for the purpose of scholarship awards as provided for in this section;

(2) Distribute scholarship funds, in the form of GET units or through direct payments from the GET ready for math and science scholarship account, to institutions of higher education on behalf of eligible recipients identified by the program administrator;

(3) Provide the program administrator with annual reports regarding enrollment, contact, and graduation information of GET ready for math and science scholarship recipients, if the recipients have given permission for the board to do so;

(4) Collect repayments from former scholarship recipients who do not meet the eligibility criteria or work obligations;

(5) Establish rules for scholarship repayment, approved leaves of absence, deferments, and exceptions to recognize extenuating circumstances that may impact students; and

(6) Provide information to school districts in Washington, at least once per year, about the GET ready for math and science scholarship program.

**NEW SECTION. Sec. 8.** School districts shall:

(1) Notify parents, teachers, counselors, and principals about the GET ready for math and science scholarship program through existing channels. Notification methods may include, but are not limited to, regular school district and building communications, online scholarship bulletins and announcements, notices posted on school walls and bulletin boards, information available in each counselor's office, and school or district scholarship information sessions.

(2) Provide each student who achieves level four on the mathematics or science high school Washington assessment of student learning with information regarding the scholarship program and how to contact the program administrator.

**NEW SECTION. Sec. 9.** The program administrator shall:

(1) Solicit and accept grants and donations from private sources to match state funds appropriated for the GET ready for math and science scholarship program;

(2) Develop and implement an application, selection, and notification process for awarding GET ready for math and science scholarships;

(3) Notify institutions of higher education of scholarship recipients who will attend their institutions and inform them of the terms of the students' eligibility; and

(4) Report to private donors on the program outcomes and facilitate contact between scholarship recipients and donors, if the recipients have given the program administrator permission to do so, in order for donors to offer employment opportunities, internships, and career information to recipients.

**NEW SECTION. Sec. 10.** The board and the program administrator shall jointly:

(1) Determine criteria for qualifying undergraduate programs, majors, and courses leading to a bachelor's degree in mathematics, science, or a related field, offered by institutions of higher education. The board shall publish the criteria for qualified courses, and lists of qualified programs and qualified majors on its web site on a biennial basis; and

(2) Establish criteria for selecting among eligible applicants those who, without scholarship assistance, would be least likely to pursue a qualified undergraduate program at an institution of higher education in Washington state.

**NEW SECTION. Sec. 11.** (1) The GET ready for math and science scholarship account is created in the custody of the state treasurer.

(2) The board shall deposit into the account all money received for the GET ready for math and science scholarship program from appropriations and private sources. The account shall be self-sustaining.

(3) Expenditures from the account shall be used for scholarships to eligible students and for purchases of GET units. Purchased GET units shall be owned and held in trust by the board. Expenditures from the account shall be an equal match of state appropriations and private funds raised by the program administrator.

(4) With the exception of the operating costs associated with the management of the account by the treasurer's office as authorized in chapter 43.79A RCW, the account shall be credited with all investment income earned by the account.

(5) Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW.

(6) Disbursements from the account shall be made only on the authorization of the board.

**NEW SECTION. Sec. 12.** A new section is added to chapter 28B.95 RCW to read as follows:

Ownership of tuition units purchased by the higher education coordinating board for the GET ready for math and science scholarship program under section 7 of this act shall be in the name of the state of Washington and may be redeemed by the state of Washington on behalf of recipients of GET ready for math and science scholarship program scholarships for tuition and fees.

**Sec. 13.** RCW 28B.95.060 and 2000 c 14 s 5 are each amended to read as follows:

(1) The Washington advanced college tuition payment program account is created in the custody of the state treasurer. The account shall be a discrete nontreasury account retaining its interest earnings in accordance with RCW 43.79A.040.

(2)(a) Except as provided in (b) of this subsection, the governing body shall deposit in the account all money received for the program. The account shall be self-sustaining and consist of payments received from purchasers of tuition units and funds received from other sources, public or private. With the exception of investment and operating costs associated with the investment of money by the investment board paid under RCW 43.33A.160 and 43.84.160, the account shall be credited with all investment income earned by the account. Disbursements from the account are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. Money used for program administration is subject to the allotment of all expenditures. However, an appropriation is not required for such expenditures. Program administration shall include, but not be limited to: The salaries and expenses of the program personnel including lease payments, travel, and goods and services necessary for program operation; contracts for program promotion and advertisement,

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

audits, and account management; and other general costs of conducting the business of the program.

(b) All money received by the program from the higher education coordinating board for the GET ready for math and science scholarship program shall be deposited in the GET ready for math and science scholarship account created in section 11 of this act.

(3) The assets of the account may be spent without appropriation for the purpose of making payments to institutions of higher education on behalf of the qualified beneficiaries, making refunds, transfers, or direct payments upon the termination of the Washington advanced college tuition payment program. Disbursements from the account shall be made only on the authorization of the governing body.

(4) With regard to the assets of the account, the state acts in a fiduciary, not ownership, capacity. Therefore the assets of the program are not considered state money, common cash, or revenue to the state.

**Sec. 14.** RCW 43.79A.040 and 2006 c 311 s 21 and 2006 c 120 s 2 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and fire fighters' plan 2 expense fund, the local tourism promotion account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the

allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**NEW SECTION. Sec. 15.** Sections 1 through 11 of this act constitute a new chapter in Title 28B RCW."

Senator Shin spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1779.

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

#### MOTION

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

On page 1, beginning on line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 28B.95.060; reenacting and amending RCW 43.79A.040; adding a new section to chapter 28B.95 RCW; and adding a new chapter to Title 28B RCW."

#### MOTION

On motion of Senator Shin, the rules were suspended, Engrossed Second Substitute House Bill No. 1779 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Shin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1779 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1779 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Voting nay: Senator Pridemore - 1

Excused: Senator Hargrove - 1

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1779 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

HOUSE BILL NO. 1520, by Representatives Williams, Rodne, Simpson, Moeller, O'Brien, Kirby and Kenney

Concerning polygraph examinations of sexual assault victims.

The measure was read the second time.

MOTION

Senator Kline moved that the following committee striking amendment by the Committee on Judiciary be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 10.58 RCW to read as follows:

A law enforcement officer, prosecuting attorney, or other government official may not ask or require a victim of an alleged sex offense to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation of the offense. The refusal of a victim to submit to a polygraph examination or other truth telling device shall not by itself prevent the investigation, charging, or prosecution of the offense. For the purposes of this section, "sex offense" is any offense under chapter 9A.44 RCW."

Senator Kline spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Judiciary to House Bill No. 1520.

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

MOTION

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

On page 1, line 2 of the title, after "victims;" strike the remainder of the title and insert "and adding a new section to chapter 10.58 RCW."

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 1520 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1520 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1520 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yeas: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Hargrove - 1

HOUSE BILL NO. 1520 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

HOUSE BILL NO. 2034, by Representatives Jarrett, Clibborn, Roberts and Hurst

Providing a civil cause of action for victims of motor vehicle theft.

The measure was read the second time.

MOTION

On motion of Senator Kline, the rules were suspended, House Bill No. 2034 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

MOTION

On motion of Senator Brandland, Senator Carrell was excused.

MOTION

On motion of Senator Eide, further consideration of House Bill No. 2034 was deferred and the bill held its place on the third reading calendar.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1277, by House Committee on Finance (originally sponsored by Representatives Kelley, Simpson, Wood, P. Sullivan, Conway, Kenney, Ericks, Rolfes and Morrell)

Expanding competitive local infrastructure financing tools projects.

The measure was read the second time.

MOTION

Senator Kilmer moved that the following committee striking amendment by the Committee on Ways & Means be adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 39.102.020 and 2006 c 181 s 102 are each amended to read as follows:

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

(1) "Annual state contribution limit" means ((five)) ten million dollars statewide per fiscal year.

(2) "Assessed value" means the valuation of taxable real property as placed on the last completed assessment roll.

(3) "Base year" means the first calendar year following the ~~((creation of a revenue development area. For a local government that meets the requirements of RCW 39.102.040(2),~~ "base year" is the calendar year after it amends its ordinance as provided in RCW 39.102.040(2)) calendar year in which a sponsoring local government, and any cosponsoring local government, receives approval by the board for a project award, provided that the approval is granted before October 15th. If approval by the board is received on or after October 15th but on or before December 31st, the "base year" is the second calendar year following the calendar year in which a sponsoring local government, and any cosponsoring local government, receives approval by the board for a project award.

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

(4) "Board" means the community economic revitalization board under chapter 43.160 RCW.

(5) "Demonstration project" means one of the following projects:

- (a) Bellingham waterfront redevelopment project;
- (b) Spokane river district project at Liberty Lake; and
- (c) Vancouver riverwest project.

(6) "Department" means the department of revenue.

(7) "Fiscal year" means the twelve-month period beginning July 1st and ending the following June 30th.

(8) "Local excise taxes" means local revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030 at the tax rate that was in effect at the time the revenue development area was ~~((created))~~ approved by the board, except that if a local government reduces the rate of such tax after the revenue development area was ~~((created))~~ approved by the board, "local excise taxes" means the local revenues derived from the imposition of the sales and use taxes authorized in RCW 82.14.030 at the lower tax rate.

(9) "Local excise tax allocation revenue" means the amount of local excise taxes received by the local government during the measurement year from taxable activity within the revenue development area over and above the amount of local excise taxes received by the local government during the base year from taxable activity within the revenue development area, except that:

(a) If a sponsoring local government ~~((creates))~~ adopts a revenue development area and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred within the boundaries of the revenue development area in the twelve months immediately preceding the ~~((creation))~~ approval of the revenue development area ~~((within the boundaries of the area that became the revenue development area))~~ by the board, "local excise tax allocation revenue" means the entire amount of local excise taxes received by the sponsoring local government during a calendar year period beginning with the calendar year immediately following the ~~((creation))~~ approval of the revenue development area by the board and continuing with each measurement year thereafter; and

(b) For revenue development areas ~~((created))~~ approved by the board in calendar years 2006 and 2007 that do not meet the requirements in (a) of this subsection and if legislation is enacted in this state ~~((by July 1, 2006;))~~ during the 2007 legislative session that adopts the sourcing provisions of the streamlined sales and use tax agreement, "local excise tax allocation revenue" means the amount of local excise taxes received by the sponsoring local government during the measurement year from taxable activity within the revenue development area over and above an amount of local excise taxes received by the sponsoring local government during the 2007 or 2008 base year, as the case may be, adjusted by the department for any estimated impacts from retail sales and use tax sourcing changes effective ~~((July 1, 2007))~~ in 2008. The amount of base year adjustment determined by the department is final.

(10) "Local government" means any city, town, county, port district, and any federally recognized Indian tribe.

(11) "Local infrastructure financing" means the use of revenues received from local excise tax allocation revenues, local property tax allocation revenues, ~~((dedicated))~~ other revenues from local public sources, and revenues received from the local option sales and use tax authorized in RCW 82.14.475, dedicated to pay either the principal and interest on bonds authorized under RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis subject to section 14 of this act, or both.

(12) "Local property tax allocation revenue" means those tax revenues derived from the receipt of regular property taxes levied on the property tax allocation revenue value and used for local infrastructure financing.

(13)(a) "Revenues from local public sources" means ~~((federal and private monetary contributions, amounts of local excise tax allocation revenues, and amounts of local property tax allocation revenues dedicated by participating taxing districts~~

~~and participating local governments for local infrastructure financing))~~;

~~(i) Amounts of local excise tax allocation revenues and local property tax allocation revenues, dedicated by sponsoring local governments, participating local governments, and participating taxing districts, for local infrastructure financing; and~~

~~(ii) Any other local revenues, except as provided in (b) of this subsection, including revenues derived from federal and private sources.~~

~~(b) Revenues from local public sources do not include any local funds derived from state grants, state loans, or any other state moneys including any local sales and use taxes credited against the state sales and use taxes imposed under chapter 82.08 or 82.12 RCW.~~

(14) "Low-income housing" means residential housing for low-income persons or families who lack the means which is necessary to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding. For the purposes of this subsection, "low income" means income that does not exceed eighty percent of the median family income for the standard metropolitan statistical area in which the revenue development area is located.

(15) "Measurement year" means a calendar year, beginning with the calendar year following the base year and each calendar year thereafter, that is used annually to measure state and local excise tax allocation revenues.

(16) "Ordinance" means any appropriate method of taking legislative action by a local government.

(17) "Participating local government" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in RCW 39.102.080 to allow the use of all or some of its local excise tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(18) "Participating taxing district" means a local government having a revenue development area within its geographic boundaries that has entered into a written agreement with a sponsoring local government as provided in RCW 39.102.080 to allow the use of some or all of its local property tax allocation revenues or other revenues from local public sources dedicated for local infrastructure financing.

(19)(a)(i) "Property tax allocation revenue value" means seventy-five percent of any increase in the assessed value of real property in a revenue development area resulting from:

~~(A) The placement of new construction, improvements ~~((or both))~~ to property, or both, on the assessment roll ~~((s after the revenue development area is created))~~, where the new construction ~~((or))~~ and improvements ~~((occur entirely after the revenue development area is created))~~ are initiated after the revenue development area is approved by the board;~~

~~(B) The cost of new housing construction, conversion, and rehabilitation improvements, when such cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.14.020, and the new housing construction, conversion, and rehabilitation improvements are initiated after the revenue development area is approved by the board;~~

~~(C) The cost of rehabilitation of historic property, when such cost is treated as new construction for purposes of chapter 84.55 RCW as provided in RCW 84.26.070, and the rehabilitation is initiated after the revenue development area is approved by the board.~~

~~(ii) Increases in the assessed value of real property in a revenue development area resulting from (a)(i)(A) through (C) of this subsection are included in the property tax allocation revenue value in the initial year. These same amounts are also included in the property tax allocation revenue value in subsequent years unless the property becomes exempt from property taxation.~~

~~(b) ~~((If any new construction added to the assessment rolls consists of entire buildings, "property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of the buildings in the years following their initial placement on the assessment rolls.~~~~

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

~~(c) "Property tax allocation revenue value" does not include any increase in the assessed value of improvements to property or new construction that do not consist of an entire building, occurring after their initial placement on the assessment rolls) "Property tax allocation revenue value" includes seventy-five percent of any increase in the assessed value of new construction consisting of an entire building in the years following the initial year, unless the building becomes exempt from property taxation.~~

~~(c) Except as provided in (b) of this subsection, "property tax allocation revenue value" does not include any increase in the assessed value of real property after the initial year.~~

~~(d) There is no property tax allocation revenue value if the assessed value of real property in a revenue development area has not increased ((due to new construction or improvements to property occurring after the revenue development area is created)) as a result of any of the reasons specified in (a)(i)(A) through (C) of this subsection.~~

~~(e) For purposes of this subsection, "initial year" means:~~

~~(i) For new construction and improvements to property added to the assessment roll, the year during which the new construction and improvements are initially placed on the assessment roll;~~

~~(ii) For the cost of new housing construction, conversion, and rehabilitation improvements, when such cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year; and~~

~~(iii) For the cost of rehabilitation of historic property, when such cost is treated as new construction for purposes of chapter 84.55 RCW, the year when such cost is treated as new construction for purposes of levying taxes for collection in the following year.~~

(20) "Taxing district" means a government entity that levies or has levied for it regular property taxes upon real property located within a proposed or approved revenue development area.

(21) "Public improvements" means:

(a) Infrastructure improvements within the revenue development area that include:

(i) Street, bridge, and road construction and maintenance, including highway interchange construction;

(ii) Water and sewer system construction and improvements, including wastewater reuse facilities;

(iii) Sidewalks, traffic controls, and streetlights;

(iv) Parking, terminal, and dock facilities;

(v) Park and ride facilities of a transit authority;

(vi) Park facilities and recreational areas, including trails; and

(vii) Storm water and drainage management systems;

(b) Expenditures for facilities and improvements that support affordable housing as defined in RCW 43.63A.510.

(22) "Public improvement costs" means the cost of: (a) Design, planning, acquisition including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) demolishing, relocating, maintaining, and operating property pending construction of public improvements; (c) the local government's portion of relocating utilities as a result of public improvements; (d) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on general indebtedness issued to finance public improvements, and any necessary reserves for general indebtedness; (e) assessments incurred in revaluing real property for the purpose of determining the property tax allocation revenue base value that are in excess of costs incurred by the assessor in accordance with the revaluation plan under chapter 84.41 RCW, and the costs of apportioning the taxes and complying with this chapter and other applicable law; ~~(and)~~ (f) administrative expenses and feasibility studies reasonably necessary and related to these costs ~~(, including related)~~; and (g) any of the above-described costs that may have been incurred before adoption of the ordinance authorizing the public

improvements and the use of local infrastructure financing to fund the costs of the public improvements.

(23) "Regular property taxes" means regular property taxes as defined in RCW 84.04.140, except: (a) Regular property taxes levied by public utility districts specifically for the purpose of making required payments of principal and interest on general indebtedness; (b) regular property taxes levied by the state for the support of the common schools under RCW 84.52.065; and (c) regular property taxes authorized by RCW 84.55.050 that are limited to a specific purpose. "Regular property taxes" do not include excess property tax levies that are exempt from the aggregate limits for junior and senior taxing districts as provided in RCW 84.52.043.

(24) "Property tax allocation revenue base value" means the assessed value of real property located within a revenue development area for taxes levied in the year in which the revenue development area is ~~(created)~~ adopted for collection in the following year, plus one hundred percent of any increase in the assessed value of real property located within a revenue development area that is placed on the assessment rolls after the revenue development area is ~~((created))~~ adopted, less the property tax allocation revenue value.

(25) "Relocating a business" means the closing of a business and the reopening of that business, or the opening of a new business that engages in the same activities as the previous business, in a different location within a one-year period, when an individual or entity has an ownership interest in the business at the time of closure and at the time of opening or reopening. "Relocating a business" does not include the closing and reopening of a business in a new location where the business has been acquired and is under entirely new ownership at the new location, or the closing and reopening of a business in a new location as a result of the exercise of the power of eminent domain.

(26) "Revenue development area" means the geographic area ~~((created))~~ adopted by a sponsoring local government and approved by the board, from which local excise and property tax allocation revenues are derived for local infrastructure financing.

(27) "Small business" has the same meaning as provided in RCW 19.85.020.

(28) "Sponsoring local government" means a city, town, or county, and for the purpose of this chapter a federally recognized Indian tribe or any combination thereof, that ~~((creates))~~ adopts a revenue development area and applies to the board to use local infrastructure financing.

(29) "State contribution" means the lesser of:

(a) One million dollars;

(b) The state excise tax allocation revenue and state property tax allocation revenue received by the state during the preceding calendar year;

(c) The total amount of local excise tax allocation revenues, local property tax allocation revenues, and other revenues from local public sources, that are dedicated by a sponsoring local government, any participating local governments, and participating taxing districts, in the preceding calendar year to the payment of principal and interest on bonds issued under RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis subject to section 14 of this act, or both; or

(d) The amount of project award granted by the board in the notice of approval to use local infrastructure financing under RCW 39.102.040.

(30) "State excise taxes" means revenues derived from state retail sales and use taxes under chapters 82.08 and 82.12 RCW, less the amount of tax distributions from all local retail sales and use taxes, other than the local sales and use taxes authorized by RCW 82.14.475, imposed on the same taxable events that are credited against the state retail sales and use taxes under chapters 82.08 and 82.12 RCW.

(31) "State excise tax allocation revenue" means the amount of state excise taxes received by the state during the measurement year from taxable activity within the revenue development area over and above the amount of state excise taxes received by the state during the base year from taxable activity within the revenue development area, except that:



EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

(a) If a sponsoring local government (~~creates~~) adopts a revenue development area and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred within the boundaries of the revenue development area in the twelve months immediately preceding the (creation) approval of the revenue development area (within the boundaries of the area that became the revenue development area) by the board, "state excise tax allocation revenue" means the entire amount of state excise taxes received by the state during a calendar year period beginning with the calendar year immediately following the (creation) approval of the revenue development area by the board and continuing with each measurement year thereafter; and

(b) For revenue development areas (~~created~~) approved by the board in calendar years 2006 and 2007 that do not meet the requirements in (a) of this subsection and if legislation is enacted in this state (by July 1, 2006;) during the 2007 legislative session that adopts the sourcing provisions of the streamlined sales and use tax agreement, "state excise tax allocation revenue" means the amount of state excise taxes received by the state during the measurement year from taxable activity within the revenue development area over and above an amount of state excise taxes received by the state during the 2007 or 2008 base year, as the case may be, adjusted by the department for any estimated impacts from retail sales and use tax sourcing changes effective (July 1, 2007) in 2008. The amount of base year adjustment determined by the department is final.

(32) "State property tax allocation revenue" means those tax revenues derived from the imposition of property taxes levied by the state for the support of common schools under RCW 84.52.065 on the property tax allocation revenue value.

(33) "Real property" has the same meaning as in RCW 84.04.090 and also includes any privately owned improvements located on publicly owned land that are subject to property taxation.

**Sec. 2.** RCW 39.102.040 and 2006 c 181 s 202 are each amended to read as follows:

(1) Prior to applying to the board to use local infrastructure financing, a sponsoring local government shall:

(a) Designate a revenue development area within the limitations in RCW 39.102.060;

(b) Certify that the conditions in RCW 39.102.070 are met;

(c) Complete the process in RCW 39.102.080;

(d) Provide public notice as required in RCW 39.102.100; and

(e) Pass an ordinance adopting the revenue development area as required in RCW 39.102.090.

(2) Any local government that has created an increment area under chapter 39.89 RCW (~~that~~) and has not issued bonds to finance any public improvement (~~shall be~~) may apply to the board and have its increment area considered for approval as a revenue development area under this chapter without (creating) adopting a new (increment) revenue development area under RCW 39.102.090 and 39.102.100 if it amends its ordinance to comply with RCW 39.102.090(1) and otherwise meets the conditions and limitations under this chapter.

(3) As a condition to imposing a sales and use tax under RCW 82.14.475, a sponsoring local government, including any cosponsoring local government seeking authority to impose a sales and use tax under RCW 82.14.475, must apply to the board and be approved for a project award amount. The application shall be in a form and manner prescribed by the board and include but not be limited to information establishing that the applicant is an eligible candidate to impose the local sales and use tax under RCW 82.14.475, the anticipated effective date for imposing the tax, the estimated number of years that the tax will be imposed, and the estimated amount of tax revenue to be received in each fiscal year that the tax will be imposed. The board shall make available forms to be used for this purpose. As part of the application, each applicant must provide to the board a copy of the ordinance or ordinances creating the revenue development area as required in RCW 39.102.090. A notice of approval to use local infrastructure financing shall contain a project award that represents the

maximum amount of state contribution that the applicant, including any cosponsoring local governments, can earn each year that local infrastructure financing is used. The total of all project awards shall not exceed the annual state contribution limit. The determination of a project award shall be made based on information contained in the application and the remaining amount of annual state contribution limit to be awarded. Determination of a project award by the board is final.

(4)(a) Sponsoring local governments, and any cosponsoring local governments, applying in calendar year 2007 for a competitive project award, must submit completed applications to the board no later than July 1, 2007. By September 15, 2007, in consultation with the department of revenue and the department of community, trade, and economic development, the board shall approve (qualified) competitive project(s; up to the annual state contribution limit) awards from competitive applications submitted by the 2007 deadline. No more than two million five hundred thousand dollars in competitive project awards shall be approved in 2007. For projects not approved by the board in 2007, sponsoring and cosponsoring local governments may apply again to the board in 2008 for approval of a project.

(b) Sponsoring local governments, and any cosponsoring local governments, applying in calendar year 2008 for a competitive project award, must submit completed applications to the board no later than July 1, 2008. By September 18, 2008, in consultation with the department of revenue and the department of community, trade, and economic development, the board shall approve competitive project awards from competitive applications submitted by the 2008 deadline. No more than two million five hundred thousand dollars in competitive project awards shall be approved in 2008, except as provided in RCW 39.102.050(2). For projects not approved in 2008, sponsoring and cosponsoring local governments may apply again to the board for approval of a project.

(c) Sponsoring local governments, and any cosponsoring local governments, applying in calendar year 2009 for a competitive project award, must submit completed applications to the board no later than July 1, 2009. By September 15, 2009, in consultation with the department of revenue and the department of community, trade, and economic development, the board shall approve competitive project awards from competitive applications submitted by the 2009 deadline.

(d) Except as provided in RCW 39.102.050(2), a total of no more than seven million five hundred thousand dollars in competitive project awards shall be approved for local infrastructure financing. (Except as provided in RCW 39.102.050, approvals shall be based on the following criteria)

(e) The project selection criteria and weighting developed prior to the effective date of this act for the application evaluation and approval process shall apply to applications received prior to November 1, 2007. In evaluating applications for a competitive project award after November 1, 2007, the board shall, in consultation with the Washington state economic development commission, develop the relative weight to be assigned to the following criteria:

~~((a))~~ (i) The ~~(project)~~ project's potential to enhance the sponsoring local government's regional and/or international competitiveness;

~~((b))~~ (ii) The project's ability to encourage mixed use and transit-oriented development and the redevelopment of a geographic area;

~~((c))~~ (iii) Achieving an overall distribution of projects statewide that reflect geographic diversity;

~~((d))~~ (iv) The estimated wages and benefits for the project is greater than the average labor market area;

~~((e))~~ (v) The estimated state and local net employment change over the life of the project;

~~((f))~~ (vi) The current economic health and vitality of the proposed revenue development area and the contiguous community and the estimated impact of the proposed project on the proposed revenue development area and contiguous community;

(vii) The estimated state and local net property tax change over the life of the project; ~~(and~~

EIGHTY-EIGHTH DAY, APRIL 5, 2007

~~(g)) (viii) The estimated state and local sales and use tax increase over the life of the project;~~

~~(ix) An analysis that shows that, over the life of the project, neither the local excise tax allocation revenues nor the local property tax allocation revenues will constitute more than eighty percent of the total local funds as described in RCW 39.102.020(29)(c); and~~

~~(x) If a project is located within an urban growth area, evidence that the project utilizes existing urban infrastructure and that the transportation needs of the project will be adequately met through the use of local infrastructure financing or other sources.~~

~~(f)(i) Except as provided in this subsection (4)(f), the board may not approve the use of local infrastructure financing within more than one revenue development area per county.~~

~~(ii) In a county in which the board has approved the use of local infrastructure financing, the use of such financing in additional revenue development areas may be approved, subject to the following conditions:~~

~~(A) The sponsoring local government is located in more than one county; and~~

~~(B) The sponsoring local government designates a revenue development area that comprises portions of a county within which the use of local infrastructure financing has not yet been approved.~~

~~(iii) In a county where the local infrastructure financing tool is authorized under RCW 39.102.050, the board may approve additional use of the local infrastructure financing tool.~~

~~(5) ((A revenue development area is considered created when the sponsoring local government, including any cosponsoring local government, has adopted an ordinance creating the revenue development area and the board has approved the sponsoring local government to use local infrastructure financing. If a sponsoring local government receives approval from the board after the fifteenth day of October to use local infrastructure financing, the revenue development area is considered created in the calendar year following the approval.)) Once the board has approved the sponsoring local government, and any cosponsoring local governments, to use local infrastructure financing, notification ((shall) must be sent by the board to the sponsoring local government, and any cosponsoring local governments, authorizing the sponsoring local government, and any cosponsoring local governments, to impose the local sales and use tax authorized under RCW 82.14.475, subject to the conditions in RCW 82.14.475.~~

**Sec. 3.** RCW 39.102.050 and 2006 c 181 s 203 are each amended to read as follows:

(1) In addition to a competitive process, demonstration projects are provided to determine the feasibility of the local infrastructure financing tool. Notwithstanding RCW 39.102.040, the board shall approve each demonstration project ((before approving any other application)). Demonstration project applications must be received by the board no later than July 1, 2008. The Bellingham waterfront redevelopment project award shall not exceed one million dollars per year, the Spokane river district project award shall not exceed one million dollars per year, and the Vancouver riverwest project award shall not exceed five hundred thousand dollars per year. The board shall approve by September 15, 2007, demonstration project applications submitted no later than July 1, 2007. The board shall approve by September 18, 2008, demonstration project applications submitted by July 1, 2008.

(2) If before board approval of the final competitive project award in 2008, a demonstration project has not received approval by the board, the state dollars set aside for the demonstration project in subsection (1) of this section shall be available for the competitive application process. If a demonstration project has received a partial award before the approval of the final competitive project award, the remaining state dollars set aside for the demonstration project in subsection (1) of this section shall be available for the competitive process.

**Sec. 4.** RCW 39.102.060 and 2006 c 181 s 204 are each amended to read as follows:

The designation of a revenue development area is subject to the following limitations:

(1) The taxable real property within the revenue development area boundaries may not exceed one billion dollars in assessed value at the time the revenue development area is designated;

(2) The average assessed value per square foot of taxable land within the revenue development area boundaries, as of January 1st of the year the application is submitted to the board under RCW 39.102.040, may not exceed seventy dollars at the time the revenue development area is designated;

~~(3) ((No more than one revenue development area may be created in a county)) No revenue development area shall have within its geographic boundaries any part of a hospital benefit zone under chapter 39.100 RCW or any part of another revenue development area created under this chapter;~~

(4) A revenue development area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the revenue development area;

(5) The boundaries may not be drawn to purposely exclude parcels where economic growth is unlikely to occur;

(6) The public improvements financed through local infrastructure financing must be located in the revenue development area;

(7) A revenue development area cannot comprise an area containing more than twenty-five percent of the total assessed value of the taxable real property within the boundaries of the sponsoring local government, including any cosponsoring local government, at the time the revenue development area is designated;

(8) The boundaries of the revenue development area shall not be changed for the time period that local infrastructure financing is used; and

(9) A revenue development area cannot include any part of an increment area created under chapter 39.89 RCW, except those increment areas created prior to January 1, 2006.

**Sec. 5.** RCW 39.102.090 and 2006 c 181 s 207 are each amended to read as follows:

(1) To ((create)) adopt a revenue development area, a sponsoring local government, and any cosponsoring local government, must adopt an ordinance establishing the revenue development area that:

(a) Describes the public improvements proposed to be made in the revenue development area;

(b) Describes the boundaries of the revenue development area, subject to the limitations in RCW 39.102.060;

(c) Estimates the cost of the proposed public improvements and the portion of these costs to be financed by local infrastructure financing;

(d) Estimates the time during which local excise tax allocation revenues, local property tax allocation revenues, and other revenues from local public sources are to be used for local infrastructure financing;

(e) Provides the date when the use of local excise tax allocation revenues and local property tax allocation revenues will commence; and

(f) Finds that the conditions in RCW 39.102.070 are met and the findings in RCW 39.102.080 are complete.

(2) The sponsoring local government, and any cosponsoring local government, must hold a public hearing on the proposed financing of the public improvements in whole or in part with local infrastructure financing ((at least thirty days)) before passage of the ordinance establishing the revenue development area. The public hearing may be held by either the governing body of the sponsoring local government and the governing body of any cosponsoring local government, or by a committee of those governing bodies that includes at least a majority of the whole governing body or bodies. The public hearing is subject to the notice requirements in RCW 39.102.100.

(3) The sponsoring local government, and any cosponsoring local government, shall deliver a certified copy of the adopted ordinance to the county treasurer, the governing body of each participating local government and participating taxing district

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

within which the revenue development area is located, the board, and the department.

**Sec. 6.** RCW 39.102.110 and 2006 c 181 s 301 are each amended to read as follows:

(1) A sponsoring local government or participating local government that has received approval by the board to use local infrastructure financing may use annually its local excise tax allocation revenues to finance public improvements in the revenue development area financed in whole or in part by local infrastructure financing. The use of local excise tax allocation revenues dedicated by participating local governments must cease ~~((when such allocation revenues are no longer necessary or obligated to pay bonds issued to finance the public improvements in the revenue development area))~~ on the date specified in the written agreement required in RCW 39.102.080(1), or if no date is specified then the date when the local tax under RCW 82.14.475 expires. Any participating local government is authorized to dedicate local excise tax allocation revenues to the sponsoring local government as authorized in RCW 39.102.080(1).

(2) A sponsoring local government shall provide the board accurate information describing the geographical boundaries of the revenue development area at the time of application. The information shall be provided in an electronic format or manner as prescribed by the department. The sponsoring local government shall ensure that the boundary information provided to the board and department is kept current.

(3) In the event a city annexes a county area located within a county-sponsored revenue development area, the city shall remit to the county the portion of the local excise tax allocation revenue that the county would have received had the area not been annexed to the county. The city shall remit such revenues until such time as the bonds issued under RCW 39.102.150 are retired.

**Sec. 7.** RCW 39.102.120 and 2006 c 181 s 302 are each amended to read as follows:

(1) Commencing in the second calendar year following ~~((the passage of the ordinance creating a revenue development area and authorizing the use of local infrastructure financing))~~ board approval of a revenue development area, the county treasurer shall distribute receipts from regular taxes imposed on real property located in the revenue development area as follows:

(a) Each participating taxing district and the sponsoring local government shall receive that portion of its regular property taxes produced by the rate of tax levied by or for the taxing district on the property tax allocation revenue base value for that local infrastructure financing project in the taxing district, or upon the total assessed value of real property in the taxing district, whichever is smaller; and

(b) The sponsoring local government shall receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the property tax allocation revenue value within the revenue development area. However, if there is no property tax allocation revenue value, the sponsoring local government shall not receive any additional regular property taxes under this subsection (1)(b). The sponsoring local government may agree to receive less than the full amount of the additional portion of regular property taxes under this subsection (1)(b) as long as bond debt service, reserve, and other bond covenant requirements are satisfied, in which case the balance of these tax receipts shall be allocated to the participating taxing districts that levied regular property taxes, or have regular property taxes levied for them, in the revenue development area for collection that year in proportion to their regular tax levy rates for collection that year. The sponsoring local government may request that the treasurer transfer this additional portion of the property taxes to its designated agent. The portion of the tax receipts distributed to the sponsoring local government or its agent under this subsection (1)(b) may only be expended to finance public improvement costs associated with the public improvements financed in whole or in part by local infrastructure financing.

(2) The county assessor shall allocate any increase in the assessed value of real property occurring in the revenue development area to the property tax allocation revenue value

and property tax allocation revenue base value as appropriate. This section does not authorize revaluations of real property by the assessor for property taxation that are not made in accordance with the assessor's revaluation plan under chapter 84.41 RCW or under other authorized revaluation procedures.

(3) The apportionment of increases in assessed valuation in a revenue development area, and the associated distribution to the sponsoring local government of receipts from regular property taxes that are imposed on the property tax allocation revenue value, must cease when property tax allocation revenues are no longer ~~((necessary or))~~ obligated to pay the costs of the public improvements. Any excess local property tax allocation revenues derived from regular property taxes and earnings on these tax allocation revenues, remaining at the time the allocation of tax receipts terminates, must be returned to the county treasurer and distributed to the participating taxing districts that imposed regular property taxes, or had regular property taxes imposed for it, in the revenue development area for collection that year, in proportion to the rates of their regular property tax levies for collection that year.

(4) The allocation to the revenue development area of portions of the local regular property taxes levied by or for each taxing district upon the property tax allocation revenue value within that revenue development area is declared to be a public purpose of and benefit to each such taxing district.

(5) The allocation of local property tax allocation revenues pursuant to this section shall not affect or be deemed to affect the rate of taxes levied by or within any taxing district or the consistency of any such levies with the uniformity requirement of Article VII, section 1 of the state Constitution.

(6) This section does not apply to those revenue development areas that include any part of an increment area created under chapter 39.89 RCW.

**Sec. 8.** RCW 82.14.475 and 2006 c 181 s 401 are each amended to read as follows:

(1) A sponsoring local government, and any cosponsoring local government, that has been approved by the board to use local infrastructure financing may impose a sales and use tax in accordance with the terms of this chapter and subject to the criteria set forth in this section. Except as provided in this section, the tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the sponsoring local government or cosponsoring local government. The rate of tax shall not exceed the rate provided in RCW 82.08.020(1), less the aggregate rates of any other local sales and use taxes imposed on the same taxable events that are credited against the state sales and use taxes imposed under chapters 82.08 and 82.12 RCW. The rate of tax may be changed only on the first day of a fiscal year as needed. Notice of rate changes must be provided to the department on the first day of March to be effective on July 1st of the next fiscal year.

(2) The tax authorized under subsection (1) of this section shall be credited against the state taxes imposed under chapter 82.08 or 82.12 RCW. The department shall perform the collection of such taxes on behalf of the sponsoring local government or cosponsoring local government at no cost to the sponsoring local government or cosponsoring local government and shall remit the taxes as provided in RCW 82.14.060.

(3)(a) No tax may be imposed under the authority of this section:

(i) Before July 1, 2008;

(ii) Before approval by the board under RCW 39.102.040; and

(iii) ~~((Except as provided in (b) of this subsection, unless))~~ Before the sponsoring local government has received (and dedicated to the payment of bonds authorized in RCW 39.102.150, in whole or in part, both)) local excise tax allocation revenues ~~((and))~~ local property tax allocation revenues, or both, during the preceding calendar year.

(b) ~~((The requirement to receive local property tax allocation revenues under (a) of this subsection is waived if the revenue development area coincides with or is contained entirely within the boundaries of an increment area adopted by a local~~

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

government under the authority of chapter 39.89 RCW for the purposes of utilizing community revitalization financing.

(c) The tax imposed under this section shall expire when the bonds issued under the authority of RCW 39.102.150 are retired, but not more than twenty-five years after the tax is first imposed.

(4) An ordinance adopted by the legislative authority of a sponsoring local government or cosponsoring local government imposing a tax under this section shall provide that:

(a) The tax shall first be imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the sponsoring local government, and any cosponsoring local government, in any fiscal year shall not exceed the amount of the state contribution;

(c) The tax shall cease to be distributed for the remainder of any fiscal year in which either:

(i) The amount of tax received by the sponsoring local government, and any cosponsoring local government, equals the amount of the state contribution;

(ii) The amount of revenue from taxes imposed under this section by all sponsoring and cosponsoring local governments equals the annual state contribution limit; or

(iii) The amount of tax received by the sponsoring local government equals the amount of project award granted in the approval notice described in RCW 39.102.040;

(d) ~~(Except when the requirement to receive local property tax allocation revenues is waived as provided in subsection (3)(b) of this section.)~~ Neither the local excise tax allocation revenues nor the local property tax allocation revenues ~~(can be)~~ may constitute more than eighty percent of the total local funds as described in RCW 39.102.020(29)(c). This requirement applies beginning January 1st of the fifth calendar year after the calendar year in which the sponsoring local government begins allocating local excise tax allocation revenues under RCW 39.102.110;

(e) The tax shall be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(f) Any revenue generated by the tax in excess of the amounts specified in (c) of this subsection shall belong to the state of Washington.

(5) If a county and city cosponsor a revenue development area, the combined rates of the city and county tax shall not exceed the rate provided in RCW 82.08.020(1), less the aggregate rates of any other local sales and use taxes imposed on the same taxable events that are credited against the state sales and use taxes imposed under chapters 82.08 and 82.12 RCW. The combined amount of distributions received by both the city and county may not exceed the state contribution.

(6) The department shall determine the amount of tax receipts distributed to each sponsoring local government, and any cosponsoring local government, imposing sales and use tax under this section and shall advise a sponsoring or cosponsoring local government when tax distributions for the fiscal year equal the amount of state contribution for that fiscal year as provided in subsection (8) of this section. Determinations by the department of the amount of tax distributions attributable to each sponsoring or cosponsoring local government are final and shall not be used to challenge the validity of any tax imposed under this section. The department shall remit any tax receipts in excess of the amounts specified in subsection (4)(c) of this section to the state treasurer who shall deposit the money in the general fund.

(7) If a sponsoring or cosponsoring local government fails to comply with RCW 39.102.140, no tax may be distributed in the subsequent fiscal year until such time as the sponsoring or cosponsoring local government complies and the department calculates the state contribution amount for such fiscal year.

(8) Each year, the amount of taxes approved by the department for distribution to a sponsoring or cosponsoring local government in the next fiscal year shall be equal to the state contribution and shall be no more than the total local funds as described in RCW 39.102.020(29)(c). The department shall

consider information from reports described in RCW 39.102.140 when determining the amount of state contributions for each fiscal year. A sponsoring or cosponsoring local government shall not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department. The department shall not approve the receipt of more distributions of sales and use tax under this section to a sponsoring or cosponsoring local government than is authorized under subsection (4) of this section.

(9) The amount of tax distributions received from taxes imposed under the authority of this section by all sponsoring and cosponsoring local governments is limited annually to not more than ~~((five)) ten~~ million dollars. ~~((The tax distributions shall be available to the sponsoring local government, and any cosponsoring local government, imposing a tax under this section only as long as the sponsoring local government has outstanding indebtedness under RCW 39.102.150.))~~

(10) The definitions in RCW 39.102.020 apply to this section unless the context clearly requires otherwise.

(11) If a sponsoring local government is a federally recognized Indian tribe, the distribution of the sales and use tax authorized under this section shall be authorized through an interlocal agreement pursuant to chapter 39.34 RCW.

(12) Subject to section 14 of this act, the tax imposed under the authority of this section may be applied either to provide for the payment of debt service on bonds issued under RCW 39.102.150 by the sponsoring local government or to pay public improvement costs on a pay-as-you-go basis, or both.

(13) The tax imposed under the authority of this section shall cease to be imposed if the sponsoring local government or cosponsoring local government fails to issue bonds under the authority of RCW 39.102.150 by June 30th of the fifth fiscal year in which the local tax authorized under this section is imposed.

**Sec. 9.** RCW 39.102.140 and 2006 c 181 s 403 are each amended to read as follows:

(1) A sponsoring local government shall provide a report to the board and the department by March 1st of each year. The report shall contain the following information:

(a) The amount of local excise tax allocation revenues, ~~((and))~~ local property tax allocation revenues, other revenues from local public sources, and taxes under RCW 82.14.475 (and revenues from local public sources)) received by the sponsoring local government during the preceding calendar year that were dedicated to pay the public improvements financed in whole or in part with local infrastructure financing, and a summary of how these revenues were expended;

(b) The names of any businesses locating within the revenue development area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local infrastructure financing;

(c) The total number of permanent jobs created in the revenue development area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local infrastructure financing;

(d) The average wages and benefits received by all employees of businesses locating within the revenue development area as a result of the public improvements undertaken by the sponsoring local government and financed in whole or in part with local infrastructure financing; and

(e) That the sponsoring local government is in compliance with RCW 39.102.070.

(2) The board shall make a report available to the public and the legislature by June 1st of each year. The report shall include a list of public improvements undertaken by sponsoring local governments and financed in whole or in part with local infrastructure financing and it shall also include a summary of the information provided to the department by sponsoring local governments under subsection (1) of this section.

**Sec. 10.** RCW 39.102.150 and 2006 c 181 s 501 are each amended to read as follows:

(1) A sponsoring local government that has designated a revenue development area and been authorized the use of local

EIGHTY-EIGHTH DAY, APRIL 5, 2007

infrastructure financing may incur general indebtedness, and issue general obligation bonds, to finance the public improvements and retire the indebtedness in whole or in part from local excise tax allocation revenues, local property tax allocation revenues, and sales and use taxes imposed under the authority of RCW 82.14.475 that it receives, subject to the following requirements:

(a) The ordinance adopted by the sponsoring local government and authorizing the use of local infrastructure financing indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(b) The sponsoring local government includes this statement of the intent in all notices required by RCW ~~((39.102.090))~~ 39.102.100.

(2)(a) Except as provided in (b) of this subsection, the general indebtedness incurred under subsection (1) of this section may be payable from other tax revenues, the full faith and credit of the local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local government for payment of costs of the public improvements or associated debt service on the general indebtedness.

(b) A sponsoring local government that issues bonds under this section shall not pledge any money received from the state of Washington for the payment of such bonds, other than the local sales and use taxes imposed under the authority of RCW 82.14.475 and collected by the department.

(3) In addition to the requirements in subsection (1) of this section, a sponsoring local government designating a revenue development area and authorizing the use of local infrastructure financing may require the nonpublic participant to provide adequate security to protect the public investment in the public improvement within the revenue development area.

(4) Bonds issued under this section shall be authorized by ordinance of the governing body of the sponsoring local government and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered as provided in RCW 39.46.030, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption with or without premium, be secured in such manner, and have such other characteristics, as may be provided by such ordinance or trust indenture or mortgage issued pursuant thereto.

(5) The sponsoring local government may annually pay into a fund to be established for the benefit of bonds issued under this section a fixed proportion or a fixed amount of any local excise tax allocation revenues and local property tax allocation revenues derived from property or business activity within the revenue development area containing the public improvements funded by the bonds, such payment to continue until all bonds payable from the fund are paid in full. The local government may also annually pay into the fund established in this section a fixed proportion or a fixed amount of any revenues derived from taxes imposed under RCW 82.14.475, such payment to continue until all bonds payable from the fund are paid in full. Revenues derived from taxes imposed under RCW 82.14.475 are subject to the use restriction in RCW 39.102.130.

(6) In case any of the public officials of the sponsoring local government whose signatures appear on any bonds or any coupons issued under this chapter shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued under this chapter are fully negotiable.

(7) Notwithstanding subsections (4) through (6) of this section, bonds issued under this section may be issued and sold in accordance with chapter 39.46 RCW.

**Sec. 11.** RCW 39.102.130 and 2006 c 181 s 402 are each amended to read as follows:

2007 REGULAR SESSION

Money collected from the taxes imposed under RCW 82.14.475 ~~((shall))~~ may be used only for the purpose of ~~((principal and interest payments on bonds issued under the authority of RCW 39.102.150))~~ paying debt service on bonds issued under the authority of RCW 39.102.150 or to pay public improvement costs on a pay-as-you-go basis as provided in section 14 of this act, or both.

**NEW SECTION. Sec. 12.** RCW 39.102.180 (General indebtedness, general obligation bonds--Authority--Security) and 2006 c 181 s 504 are each repealed.

**NEW SECTION. Sec. 13.** A new section is added to chapter 39.102 RCW to read as follows:

The department of revenue and the community economic revitalization board may adopt any rules under chapter 34.05 RCW they consider necessary for the administration of this chapter.

**NEW SECTION. Sec. 14.** A new section is added to chapter 39.102 RCW to read as follows:

Local excise tax allocation revenues, local property tax allocation revenues, other revenues from local public sources, that are dedicated to local infrastructure financing, and revenues received from the local option sales and use tax authorized in RCW 82.14.475, may not be used to pay for public improvement costs on a pay-as-you-go basis after the date that the sponsoring local government that issued the bonds as provided in RCW 39.102.150 is required to begin paying debt service on those bonds.

**NEW SECTION. Sec. 15.** This act applies retroactively as well as prospectively.

**NEW SECTION. Sec. 16.** 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. 17.** This act expires June 30, 2039."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 1277.

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

#### MOTION

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

On page 1, line 2 of the title, after "projects;" strike the remainder of the title and insert "amending RCW 39.102.020, 39.102.040, 39.102.050, 39.102.060, 39.102.090, 39.102.110, 39.102.120, 82.14.475, 39.102.140, 39.102.150, and 39.102.130; adding new sections to chapter 39.102 RCW; creating a new section; repealing RCW 39.102.180; and providing an expiration date."

#### MOTION

On motion of Senator Kilmer, the rules were suspended, Second Substitute House Bill No. 1277 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1277 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1277 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield,

EIGHTY-EIGHTH DAY, APRIL 5, 2007

2007 REGULAR SESSION

Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Voting nay: Senator Honeyford - 1

Excused: Senators Carrell and Hargrove - 2

SECOND SUBSTITUTE HOUSE BILL NO. 1277 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SUBSTITUTE HOUSE BILL NO. 1837, by House Committee on Health Care & Wellness (originally sponsored by Representatives Newhouse, Cody and Schual-Berke)

Directing the department of health to develop guidelines for the transport of nonambulatory persons in a vehicle not licensed under chapter 18.73 RCW. Revised for 1st Substitute: Concerning the transport of certain nonambulatory persons.

The measure was read the second time.

#### MOTION

Senator Keiser moved that the following committee striking amendment by the Committee on Health & Long-Term Care be adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 18.73.180 and 1987 c 214 s 14 are each amended to read as follows:

Other vehicles not herein defined by this chapter shall not be used for transportation of patients who must be carried on a stretcher or who may require medical attention en route, except that such transportation may be used when:

(1) A disaster creates a situation that cannot be served by licensed ambulances; or

(2) The use of a stretcher is necessary because an individual's personal mobility aid cannot be adequately secured in the nonambulance vehicle and the individual has written authorization from his or her physician that it is safe to transfer the individual from a personal mobility aid to a stretcher.

**NEW SECTION. Sec. 2.** (1) The department of health shall convene a stakeholder group including the department of social and health services, the department of transportation, and local special needs transportation providers who shall assist in the development of guidelines for the safe transport of individuals who rely on stretchers and personal mobility devices.

(2) The department of health shall prepare guidelines for the public and vehicle operators relating to:

(a) Appropriate situations in which vehicles other than ambulances may be used to transport individuals who rely upon personal mobility aids in the normal course of their lives; and

(b) Methods for properly securing personal mobility aids on vehicles other than ambulances and determining if they are adequately secured."

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long-Term Care to Substitute House Bill No. 1837.

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

#### MOTION

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

On page 1, line 3 of the title, after "devices;" strike the remainder of the title and insert "amending RCW 18.73.180; and creating a new section."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Substitute House Bill No. 1837 as amended by Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and Pflug spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1837 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1837 as amended by Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Hargrove - 1

SUBSTITUTE HOUSE BILL NO. 1837 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 5:27 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Friday, April 6, 2007.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

	Third Reading Final Passage . . . . .	28
1029-S	Other Action . . . . .	12
	Second Reading . . . . .	11
	Third Reading Final Passage . . . . .	12
1145	Second Reading . . . . .	3
	Third Reading Final Passage . . . . .	3
1187	Second Reading . . . . .	15
1201-S2	Other Action . . . . .	13
	Second Reading . . . . .	12, 13
	Third Reading Final Passage . . . . .	14
1231	Second Reading . . . . .	14
	Third Reading Final Passage . . . . .	14
1233-S	Other Action . . . . .	20
	Second Reading . . . . .	18
	Third Reading Final Passage . . . . .	21
1235	Second Reading . . . . .	21
	Third Reading Final Passage . . . . .	21
1236	Second Reading . . . . .	21
	Third Reading Final Passage . . . . .	21
1259-S	Other Action . . . . .	15
	Second Reading . . . . .	14
	Third Reading Final Passage . . . . .	15
1267-S	Other Action . . . . .	36
	Second Reading . . . . .	36
	Third Reading Final Passage . . . . .	36
1276-S	Other Action . . . . .	23
	Second Reading . . . . .	23
	Third Reading Final Passage . . . . .	23
1277-S2	Other Action . . . . .	61
	Second Reading . . . . .	54
	Third Reading Final Passage . . . . .	61
1279-S	Second Reading . . . . .	3
	Third Reading Final Passage . . . . .	3
1280-S2	Second Reading . . . . .	6
	Third Reading Final Passage . . . . .	6
1311	Second Reading . . . . .	50
	Third Reading Final Passage . . . . .	51
1328-S	Other Action . . . . .	6
	Second Reading . . . . .	4
	Third Reading Final Passage . . . . .	6
1333-S	Other Action . . . . .	32
	Second Reading . . . . .	29
	Third Reading Final Passage . . . . .	32
1334-S2	Other Action . . . . .	28
	Second Reading . . . . .	28
	Third Reading Final Passage . . . . .	28
1472-S	Other Action . . . . .	7
	Second Reading . . . . .	6
	Third Reading Final Passage . . . . .	8
1506-S2	Other Action . . . . .	50
	Second Reading . . . . .	37
	Third Reading Final Passage . . . . .	50
1520	Other Action . . . . .	54
	Second Reading . . . . .	54
	Third Reading Final Passage . . . . .	54
1556	Second Reading . . . . .	8
	Third Reading Final Passage . . . . .	8
1779-S2	Other Action . . . . .	53
	Second Reading . . . . .	51
	Third Reading Final Passage . . . . .	53
1837-S	Other Action . . . . .	62
	Second Reading . . . . .	62
	Third Reading Final Passage . . . . .	62
1909-S	Other Action . . . . .	10
	Second Reading . . . . .	8
	Third Reading Final Passage . . . . .	10
1916-S	Other Action . . . . .	27
	Second Reading . . . . .	25
	Third Reading Final Passage . . . . .	28
2010-S	Second Reading . . . . .	32
	Third Reading Final Passage . . . . .	32
2034	Second Reading . . . . .	54
2049-S	Other Action . . . . .	34
	Second Reading . . . . .	33, 34
	Third Reading Final Passage . . . . .	35
2105	Second Reading . . . . .	32
	Third Reading Final Passage . . . . .	33
2158-S	Second Reading . . . . .	36
	Third Reading Final Passage . . . . .	36
2261-S	Other Action . . . . .	24
	Second Reading . . . . .	23
	Third Reading Final Passage . . . . .	24
2304-S	Other Action . . . . .	37
	Second Reading . . . . .	36, 37
	Third Reading Final Passage . . . . .	37
2380-S	Messages . . . . .	1
4011-S	Second Reading . . . . .	10
	Third Reading Final Passage . . . . .	11
5039-S	Messages . . . . .	1
5042		

EIGHTY-EIGHTH DAY, APRIL 5, 2007

Messages ..... 1

5052-S  
Messages ..... 1

5228-S  
Messages ..... 1

5247  
Messages ..... 1

5251  
Messages ..... 1

5292-S  
Messages ..... 1

5313  
Messages ..... 1

5389  
Messages ..... 1

5391-S  
Messages ..... 1

5443-S  
Messages ..... 1

5461-S  
Messages ..... 1

5463-S  
Messages ..... 1

5468  
Messages ..... 1

5511-S  
Messages ..... 1

5607  
Messages ..... 1

5640  
Messages ..... 1

5711  
Messages ..... 1

5732  
Messages ..... 1

5827-S  
Messages ..... 1

5839-S  
Messages ..... 1

5895-S  
Messages ..... 1

5910-S  
Messages ..... 1

5920-S  
Messages ..... 1

6018  
Messages ..... 1

6059  
Messages ..... 1

6075  
Messages ..... 1

8681  
Adopted ..... 3  
Introduced ..... 2

9040 Steve S. Miller  
Confirmed ..... 2

9058 Barbara Rofkar  
Confirmed ..... 22

9082 Steven Adelstein  
Confirmed ..... 22

9121 Lynn Gooding  
Confirmed ..... 2

9174 Charles Robinson  
Confirmed ..... 22

9201 Susan Cole  
Confirmed ..... 22

9238 Bill Ruckelshaus  
Confirmed ..... 2

MESSAGE FROM GOVERNOR

Gubernatorial Appointments ..... 1

PRESIDENT OF THE SENATE  
Intro. Special Guest, Ambassador of Mongolia ..... 23

WASHINGTON STATE SENATE  
Parliamentary Inquiry, Senator Honeyford ..... 18  
Remarks by Ambassador of Mongolia ..... 23  
Statement for the Journal, Senator Clements ..... 24

