ONE-HUNDRED THIRD DAY

MORNING SESSION

Senate Chamber, Olympia, Friday, April 20, 2007

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Brown, Kauffman, Kohl-Welles, McAuliffe and Pflug.

The Sergeant at Arms Color Guard consisting of Pages Kordell Coleman and Brooke Vander Veen, presented the Colors. Reverend Carol Johnson Sorenson of First United Methodist Church offered the prayer.

MOTION

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

MOTION

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

MESSAGE FROM THE HOUSE

April 19, 2007

MR. PRESIDENT:
The House has passed the following bills:
SENATE BILL NO. 6167,
And the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 19, 2007

MR. PRESIDENT:

The House concurred in Senate amendment{s} to the following bills and passed the bills as amended by the Senate:
SUBSTITUTE HOUSE BILL NO. 1041,
SECOND SUBSTITUTE HOUSE BILL NO. 1573,
SUBSTITUTE HOUSE BILL NO. 1694,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 19, 2007

MR. PRESIDENT:
The House concurred in Senate amendment(s) to the following bills and passed the bills as amended by the Senate:
SECOND SUBSTITUTE HOUSE BILL NO. 1088,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1179,
SUBSTITUTE HOUSE BILL NO. 1333,
HOUSE BILL NO. 1334,
HOUSE BILL NO. 1377,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

There being no objection, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SCR 8408 by Senators Eide and Schoesler

Returning bills to their house of origin.

SCR 8409 by Senators Brown and Hewitt

Adjourning SINE DIE.

MOTION

On motion of Senator Eide, the rules were suspended and Senate Concurrent Resolution No. 8408 and Senate Concurrent Resolution No. 8409 were placed on the second reading calendar.

MOTION

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

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

MOTION

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

MOTION

Senator Brown moved adoption of the following resolution:

SENATE RESOLUTION
8687

By Senator Brown

WHEREAS, Judge James "Ben" McInturff, former Washington State Court of Appeals judge for more than 20 years, grew up in Spokane, Washington; and

WHEREAS, Judge McInturff graduated from Gonzaga University, the University of Washington, and Gonzaga University School of Law; and

WHEREAS, The crippling disease of polio was contracted by the persistent and strong-willed Judge McInturff during his patriotic service in the United States Marine Corps; and

WHEREAS, Judge McInturff was appointed Spokane County District Judge in 1953 after several years of private law practice; and

WHEREAS, With other attorneys, Judge McInturff created a program that provides legal assistance to those who cannot afford it; and

WHEREAS, Judge McInturff received the notable titles of 1987 President of the Legal Foundation in Washington and the 1980 "Boss of the Year" award by the Spokane Legal Secretaries Association; and

WHEREAS, According to an article in *The Spokesman-Review*, Judge McInturff, during a hospital visit in 1980, inspired quadriplegic Holly Caudill to "Get up and get on with life," and later had the pleasure of swearing her in as an Assistant United States Attorney; and

WHEREAS, Judge McInturff strongly sponsored and promoted the March of Dimes and the Americans with Disabilities Act; and

WHEREAS, Judge McInturff retired from the Court of Appeals in 1988, where he is remembered for his outstanding public service and judgment; and

WHEREAS, Judge McInturff passed away on May 11, 2006, leaving behind his loving wife, Betty McInturff;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate commemorate Judge "Ben" McInturff's accomplishments and contributions to Washington state; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Washington State Senate, Betty McInturff, the Washington State Court of Appeals, and *The Spokesman-Review*.

Senators Brown and Marr spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8687.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of the Judge James "Ben" McInturff's family who were seated in the gallery.

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1566, by House Committee on Finance (originally sponsored by Representatives VanDeWege, Ericks, McIntire, Ericksen, Ross, Warnick, Condotta, Kessler and McCune)

Modifying the rural county tax credit.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 1566 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.

MOTION

On motion of Senator Brandland, Senator Pflug was excused.

MOTION

On motion of Senator Regala, Senators Brown, Kauffman, Kohl-Welles and McAuliffe were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1566.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1566 and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 0; Excused, 5.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Keiser, Kilmer, Kline, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 44

Excused: Senators Brown, Kauffman, Kohl-Welles, McAuliffe and Pflug - 5

SUBSTITUTE HOUSE BILL NO. 1566, 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. 1902, by Representatives Grant, Newhouse, Linville, Orcutt, Blake, Hailey, Walsh, P. Sullivan, Kristiansen, Dunn and Hinkle

Concerning the sales and use taxation of repairs to farm machinery and equipment.

The measure was read the second time.

MOTION

Senator Prentice 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 82.08.855 and 2006 c 172 s 1 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to the sale to an eligible farmer of:

(a) Replacement parts for qualifying farm machinery and equipment;

(b) Labor and services rendered in respect to the installing of replacement parts; and

(c) Labor and services rendered in respect to the repairing of qualifying farm machinery and equipment, provided that during the course of repairing no tangible personal property is installed, incorporated, or placed in, or becomes an ingredient or component of, the qualifying farm machinery and equipment other than replacement parts.

(2)(a) Notwithstanding anything to the contrary in this chapter, if ((~~replacement parts are installed by the seller during the course of repairing, cleaning, altering, or improving qualifying farm machinery and equipment and the seller makes a separate charge for the parts, the tax levied by RCW 82.08.020 does not apply to the separately stated charge to an eligible farmer for replacement parts but only if the separately stated charge does not exceed either the seller's current publicly stated retail price for the parts or, if no separately stated retail price is available, the seller's cost for the parts. However, the exemption provided by this section shall not apply if replacement parts are installed by the seller during the course of repairing, cleaning, altering, or improving qualifying farm machinery and equipment and the seller makes a single nonitemized charge for providing the parts and service~~)) a single transaction involves services that are not exempt under this section and services that would be exempt under this section if provided separately, the exemptions provided in subsection (1)(b) and (c) of this section apply if: (i) The seller makes a separately itemized charge for labor and services described in subsection (1)(b) or (c) of this section; and (ii) the separately itemized charge does not exceed the seller's usual and customary charge for such services.

(b) If the requirements in (a)(i) and (ii) of this subsection (2) are met, the exemption provided in subsection (1)(b) or (c) of this section applies to the separately itemized charge for labor and services described in subsection (1)(b) or (c) of this section.

(3)(a) A person claiming an exemption under this section must keep records necessary for the department to verify

eligibility under this section. An exemption is available only when the buyer provides the seller with an exemption certificate issued by the department containing such information as the department requires. The exemption certificate shall be in a form and manner prescribed by the department. The seller shall retain a copy of the certificate for the seller's files.

(b) The department shall provide an exemption certificate to an eligible farmer or renew an exemption certificate, upon application by that eligible farmer. The application must be in a form and manner prescribed by the department and shall contain the following information as required by the department:

(i) The name and address of the applicant;

(ii) The uniform business identifier or tax reporting account number of the applicant, if the applicant is required to be registered with the department;

(iii) The type of farming engaged in;

(iv) Either a copy of the applicant's information as provided in (b)(iv)(A) of this subsection or a declaration as provided in (b)(iv)(B) of this subsection, as elected by the applicant:

(A) A copy of the applicant's Schedule F of Form 1040, Form 1120, or other applicable form filed with the internal revenue service indicating the applicant's gross sales or harvested value of agricultural products ((~~by the applicant in the calendar~~)) for the tax year ((~~immediately preceding the year that the application was made to the department~~)) covered by the return. If ((~~application is made before the due date of the applicant's~~)) the applicant has not filed a federal income tax return for the prior ((~~calendar~~)) tax year(~~,~~)) or ((~~any extension of the due date~~)) is not required to file a federal income tax return, the applicant shall provide ((~~a copy of the appropriate federal income tax form that was due for the second calendar year immediately preceding the year that the application is made to the department. If the applicant is not required to file federal income tax returns, the department may require the applicant to provide copies of other documents establishing the amount of the applicant's gross sales of agricultural products for the relevant calendar year~~)) copies of other documents establishing the amount of the applicant's gross sales or harvested value of agricultural products for the tax year immediately preceding the year in which an application for exemption under this section is submitted to the department;

(B) A declaration signed under penalty of perjury as provided in RCW 9A.72.085 that the applicant is an eligible farmer as defined in subsection (4)(b) of this section. Any person who knowingly makes a materially false statement on an application submitted to the department under the provisions of this section shall be guilty of perjury in the second degree under chapter 9A.72 RCW. In addition, the person is liable for payment of any taxes for which an exemption under this section was claimed, with interest at the rate provided for delinquent taxes, retroactively to the date the exemption was claimed, and penalties as provided under chapter 82.32 RCW;

(v) The name of the individual authorized to sign the certificate, printed in a legible fashion;

(vi) The signature of the authorized individual; and

(vii) Other information the department may require to verify the applicant's eligibility for the exemption.

(c)(i) Except as otherwise provided in this section, exemption certificates take effect on the date issued by the department are not transferable and are valid for the remainder of the calendar year in which the certificate is issued and the following four calendar years. The department shall attempt to notify holders of exemption certificates of the impending expiration of the certificate at least sixty days before the certificate expires and shall provide an application for renewal of the certificate.

(ii) When a certificate holder merely changes identity or form of ownership of an entity and there is no change in beneficial ownership, the exemption certificate shall be transferred to the new entity upon written notice to the department by the transferor or transferee.

(d)(i) ((~~Exemption certificates issued to persons who are eligible farmers under subsection (4)(b)(iii) of this section are conditioned on the person making at least ten thousand dollars of gross sales of agricultural products grown, raised, or produced by that person in the first full calendar year that the person engages in business as a farmer~~)) A person who is an eligible farmer as defined in subsection (4)(b)(iii) of this section shall be issued a conditional exemption certificate. The exemption certificate is conditioned upon:

(A) The eligible farmer having gross sales or a harvested value of agricultural products grown, raised, or produced by that person of at least ten thousand dollars in the first full tax year in which the person engages in business as a farmer; or

(B) The eligible farmer, during the first full tax year in which that person engages in business as a farmer, growing, raising, or producing agricultural products having an estimated value at any time during that year of at least ten thousand dollars, if the person will not sell or harvest an agricultural product during the first full tax year in which the person engages in business as a farmer.

(ii) ((~~A person who is issued a conditional exemption certificate must provide the department with a copy of the person's Schedule F of Form 1040, Form 1120, or other applicable form filed with the internal revenue service indicating the gross sales of agricultural products by the person in the first full calendar year that the person engaged in business as a farmer. If a person is not required to file federal income tax returns, the person shall provide copies of other documents establishing the amount of the person's gross sales of agricultural products for the first full calendar year that the person engaged in business as a farmer. The documentation required in this subsection (3)(d)(ii) is due no later than December 31st of the year immediately following the first full calendar year in which the person engaged in business as a farmer.~~

(iii)~~))~~ If a person fails to ((~~provide the required documentation to the department by the due date or any extension granted by the department, or if~~)) meet the condition provided in (d)(i)(A) or (B) of this subsection ((~~is not met~~)), the department shall revoke the exemption certificate. The department shall notify the person in writing of the revocation and the person's responsibility, and due date, for ((~~repayment~~)) payment of any taxes for which an exemption under this section was claimed. Any taxes for which an exemption under this section was claimed shall be due and payable within thirty days of the date of the notice revoking the certificate. The department shall assess interest on the taxes for which the exemption was claimed. Interest shall be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the exemption was claimed, and shall accrue until the taxes for which the exemption was claimed are ((~~repaid~~)) paid. Penalties shall not be imposed on any tax required to be ((~~repaid~~)) paid under this subsection (3)(d)(ii) if full payment is received by the due date. Nothing in this subsection (3)(d) prohibits a person from reapplying for an exemption certificate.

(4) The definitions in this subsection apply to this section.

(a) "Agricultural products" has the meaning provided in RCW 82.04.213.

(b) "Eligible farmer" means:

(i) A farmer as defined in RCW 82.04.213 whose gross ((~~proceeds of~~)) sales or harvested value of agricultural products grown, raised, or produced by that person is at least ten thousand dollars ((~~in~~)) for the ((~~calendar~~)) tax year immediately preceding the year in which ((~~a claim of exemption is made under this section~~)) an application for exemption under this section is submitted to the department;

(ii) The transferee of an exemption certificate under subsection (3)(c)(ii) of this section where the transferred certificate expires before the transferee engages in farming operations for a full ((~~calendar~~)) tax year, if the combined gross

((~~proceeds of~~)) sales ((~~by~~)) or harvested value of agricultural products that the transferor and transferee ((~~of agricultural products that they~~)) have grown, raised, or produced meet the requirements of (b)(i) of this subsection;

(iii) A farmer as defined in RCW 82.04.213, who does not meet the definition of "eligible farmer" in (b)(i) or (ii) of this subsection, and who did not engage in farming for the entire ((~~calendar~~)) tax year immediately preceding the year in which application for exemption under this section is ((~~made and who did not engage in farming in any other year~~)) submitted to the department, because the farmer is either new to farming or newly returned to farming; or

(iv) Anyone who otherwise meets the definition of "eligible farmer" in this subsection except that they are not a "person" as defined in RCW 82.04.030.

(c) "Farm vehicle" has the same meaning as in RCW 46.04.181.

(d) "Harvested value" means the number of units of the agricultural product that were grown, raised, or produced, multiplied by the average sales price of the agricultural product. For purposes of this subsection (4)(d), "average sales price" means the average price per unit of agricultural product received by farmers in this state as reported by the United States department of agriculture's national agricultural statistics service for the twelve-month period that coincides with, or that ends closest to, the end of the relevant tax year, regardless of whether the prices are subject to revision. If the price per unit of an agricultural product received by farmers in this state is not available from the national agricultural statistics service, average sales price may be determined by using the average price per unit of agricultural product received by farmers in this state as reported by a recognized authority for the agricultural product.

(e) "Qualifying farm machinery and equipment" means machinery and equipment used primarily by an eligible farmer for growing, raising, or producing agricultural products. "Qualifying farm machinery and equipment" does not include:

(i) ((~~Farm vehicles and other~~)) Vehicles as ((~~those terms are defined in chapter 46.04 RCW, except~~)) defined in RCW 46.04.670, other than farm tractors as defined in RCW 46.04.180, farm vehicles, and other farm implements. For purposes of this subsection (4)(((~~(c)~~)))(e)(i), "farm implement" means machinery or equipment manufactured, designed, or reconstructed for agricultural purposes and used primarily by an eligible farmer to grow, raise, or produce agricultural products, but does not include lawn tractors and all-terrain vehicles;

(ii) Aircraft;

(iii) Hand tools and hand-powered tools; and

(iv) Property with a useful life of less than one year.

(((~~(d)~~))) (f)(i) "Replacement parts" means those parts that replace an existing part, or which are essential to maintain the working condition, of a piece of qualifying farm machinery or equipment. ((~~However, "replacement parts" shall not include paint, fuel, oil, grease, hydraulic fluids, antifreeze, and similar items~~))

(ii) Paint, fuel, oil, hydraulic fluids, antifreeze, and similar items are not replacement parts except when installed, incorporated, or placed in qualifying farm machinery and equipment during the course of installing replacement parts as defined in (f)(i) of this subsection or making repairs as described in subsection (1)(c) of this section.

(g) "Tax year" means the period for which a person files its federal income tax return, irrespective of whether the period represents a calendar year, fiscal year, or some other consecutive twelve-month period. If a person is not required to file a federal income tax return, "tax year" means a calendar year.

Sec. 2. RCW 82.12.855 and 2006 c 172 s 2 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use by an eligible farmer of:

(a) Replacement parts for qualifying farm machinery and equipment;

(b) Labor and services rendered in respect to the installing of replacement parts; and

(c) Labor and services rendered in respect to the repairing of qualifying farm machinery and equipment, provided that during the course of repairing no tangible personal property is installed, incorporated, or placed in, or becomes a component of, the qualifying farm machinery and equipment other than replacement parts.

(2)(a) Notwithstanding anything to the contrary in this chapter, if ((~~replacement parts are installed by the seller during the course of repairing, cleaning, altering, or improving qualifying farm machinery and equipment and the seller makes a separate charge for the parts, the tax imposed by this chapter does not apply to the separately stated charge to an eligible farmer for replacement parts but only if the separately stated charge does not exceed either the seller's current publicly stated retail price for the parts or, if no separately stated retail price is available, the seller's cost for the parts. However, the exemption provided by this section shall not apply if replacement parts are installed by the seller during the course of repairing, cleaning, altering, or improving qualifying farm machinery and equipment and the seller makes a single nonitemized charge for providing the parts and service~~)) a single transaction involves services that are not exempt under this section and services that would be exempt under this section if provided separately, the exemptions provided in subsection (1)(b) and (c) of this section apply if: (i) The seller makes a separately itemized charge for labor and services described in subsection (1)(b) or (c) of this section; and (ii) the separately itemized charge does not exceed the seller's usual and customary charge for such services.

(b) If the requirements in (a)(i) and (ii) of this subsection (2) are met, the exemption provided in subsection (1)(b) or (c) of this section applies to the separately itemized charge for labor and services described in subsection (1)(b) or (c) of this section.

(3) The definitions and recordkeeping requirements in RCW 82.08.855, other than the exemption certificate requirement, apply to this section.

(4) If a person is an eligible farmer as defined in RCW 82.08.855(4)(b)(iii) who cannot prove income because the person is new to farming or newly returned to farming, the exemption under this section will apply only if one of the conditions in RCW 82.08.855(3)(d)(i)(A) or (B) is met. If the conditions are not met, any taxes for which an exemption under this section was claimed and interest on such taxes must be paid. Amounts due under this subsection shall be in accordance with RCW 82.08.855(3)(d)(ii), except that the due date for payment is January 31st of the year immediately following the first full tax year in which the person engaged in business as a farmer.

(5) Except as provided in subsection (4) of this section, the department shall not assess the tax imposed under this chapter against a person who no longer qualifies as an eligible farmer with respect to the use of any articles or services exempt under subsection (1) of this section, if the person was an eligible farmer when the person first put the articles or services to use in this state."

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 House Bill No. 1902.

The motion by Senator Prentice 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 "equipment;" strike the remainder of the title and insert "amending RCW 82.08.855 and 82.12.855; and prescribing penalties."

MOTION

On motion of Senator Prentice, the rules were suspended, Engrossed House Bill No. 1902 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1902 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1902 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 32; Nays, 12; Absent, 1; Excused, 4.

Voting yea: Senators Berkey, Brandland, Carrell, Clements, Delvin, Eide, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kilmer, Marr, McAuliffe, McCaslin, Morton, Parlette, Poulsen, Prentice, Rasmussen, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli - 32

Voting nay: Senators Fairley, Fraser, Keiser, Kline, Murray, Oemig, Pridemore, Regala, Rockefeller, Spanel, Tom and Weinstein - 12

Absent: Senator Benton - 1

Excused: Senators Brown, Kauffman, Kohl-Welles and Pflug - 4

ENGROSSED HOUSE BILL NO. 1902 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. 2163, by Representatives Cody, Sommers, Kenney and Moeller

Creating the public employees' benefits board medical benefits administration account.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 2163 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.

MOTION

On motion of Senator Regala, Senator Kastama was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 2163.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2163 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, 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 Holmquist - 1

Excused: Senators Brown and Kohl-Welles - 2

HOUSE BILL NO. 2163, 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.

PARLIAMENTARY INQUIRY

Senator Zarelli: "Mr. President, I'm trying to locate the bills on calendar that are on this short list and I can't seem to find them on any of the calendars that we have even the books they refer too. I'm trying to find out where we can read about the bills that are before us on this calendar."

REPLY BY THE PRESIDENT

President Owen: "Let me see what I can find out for you... It is that calendar, the April 13th calendar. Right, Senator Carrell? Is that the one you have there? What's the date on that Senator Carrell? Thank you. No, No, the very last bill is on the April 13th calendar that Senator Carrell has in his hand there...That bill could be found on the April 13th calendar. Not the supplemental calendar..."

SECOND READING

HOUSE BILL NO. 1674, by Representatives Hunter, Conway, Dunn, Ormsby and Wood

Authorizing the governor to enter into a cigarette tax contract with the Spokane Tribe.

The measure was read the second time.

MOTION

Senator Prentice 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 43.06.460 and 2005 c 208 s 1 are each amended to read as follows:

(1) The governor is authorized to enter into cigarette tax contracts with the Squaxin Island Tribe, the Nisqually Tribe, Tulalip Tribes, the Muckleshoot Indian Tribe, the Quinault Nation, the Jamestown S'Klallam Indian Tribe, the Port Gamble S'Klallam Tribe, the Stillaguamish Tribe, the Sauk-Suiattle Tribe, the Skokomish Indian Tribe, the Yakama Nation, the Suquamish Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, the Upper Skagit Tribe, the Snoqualmie Tribe, the Swinomish Tribe, the Samish Indian Nation, the Quileute Tribe, the Kalispel Tribe, the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, ((~~and~~)) the Makah Tribe, the Hoh Tribe, and the Spokane Tribe. Each contract adopted under this section shall provide that the tribal cigarette tax rate be one hundred percent of the state cigarette and state and local sales and use taxes within three years of enacting the tribal tax and shall be set no lower than eighty percent of the state cigarette and state and local sales and use

taxes during the three-year phase-in period. The three-year phase-in period shall be shortened by three months each quarter the number of cartons of nontribal manufactured cigarettes is at least ten percent or more than the quarterly average number of cartons of nontribal manufactured cigarettes from the six-month period preceding the imposition of the tribal tax under the contract. Sales at a retailer operation not in existence as of the date a tribal tax under this section is imposed are subject to the full rate of the tribal tax under the contract. The tribal cigarette tax is in lieu of the state cigarette and state and local sales and use taxes, as provided in RCW 43.06.455(3).

(2) A cigarette tax contract under this section is subject to RCW 43.06.455.

NEW SECTION. **Sec. 2.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007."

MOTION

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

On page 2, after line 2, insert the following:

"(3) The governor may not directly or indirectly accept a contribution from a party to an agreement that has been negotiated within the prior four years or is currently under negotiation, if the governor is authorized to negotiate with the party under subsection (1) of this section."

Renumber the sections consecutively and correct any internal references accordingly.

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

Senator Prentice spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 2, after line 2 to the committee striking amendment to House Bill No. 1674.

The motion by Senator Honeyford failed and the amendment to the committee striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to House Bill No. 1674.

The motion by Senator Prentice 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 "Tribe;" strike the remainder of the title and insert "amending RCW 43.06.460; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator Prentice, the rules were suspended, House Bill No. 1674 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Prentice spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1674 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1674 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 1; Absent, 1; Excused, 2.

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, Kline, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Voting nay: Senator Schoesler - 1

Absent: Senator McAuliffe - 1

Excused: Senators Brown and Kohl-Welles - 2

HOUSE BILL NO. 1674 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.

PARLIAMENTARY INQUIRY

Senator Schoesler: "We just received list number two of order of consideration with a number of bills that I believe the members probably have caucused on. For the members information, could we find out what books those pages are referenced because I believe they probably come from multiple books that the members need to be aware of what there voting on?"

REPLY BY THE PRESIDENT

President Owen: "Senator Schoesler, we will see what we can do. Senator Schoesler, these are new dispute calendars and concurrence calendars and they're all on these two. Either the blue or the green dispute or concurring calendar."

PARLIAMENTARY INQUIRY

Senator Schoesler: "Thank you Mr. President. What are the dates? Those are the April 20th summaries?"

REPLY BY THE PRESIDENT

President Owen: "Both of them, yes."

REMARKS BY THE PRESIDENT

President Owen: "The President can't help but notice today that its another milestone in the lite of one of the Senators. Today celebrating his birthday is Senator McCaslin. Happy Birthday, Senator McCaslin."

MOTION

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

MESSAGE FROM THE HOUSE

April 19, 2007

MR. PRESIDENT:

The House insists on its position regarding the Senate amendment(s) to HOUSE BILL NO. 1051 and again asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate adhere to its position on House Bill No. 1051 and ask the House to concur.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate adhere to its position on House Bill No. 1051 and ask the House to concur.

The motion by Senator McAuliffe carried and the Senate adhered to its position on House Bill No. 1051 and ask the House to concur.

MESSAGE FROM THE HOUSE

April 17, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1303 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Poulsen moved that the Senate insist on its position on the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1303 and ask the House to concur thereon.

The President declared the question before the Senate to be motion by Senator Poulsen that the Senate insist on its position on the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1303 and ask the House to concur thereon.

The motion by Senator Poulsen carried and the Senate insisted on its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1303 and asked the House to concur thereon.

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

Under suspension of rules SUBSTITUTE SENATE BILL NO. 5340 was returned to second reading for purpose of an amendments: 5340-S AMH LANT H3591 and passed the House as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that the supreme court, in its opinion in *McClarty v. Totem Electric,* 157 Wn.2d 214, 137 P.3d 844 (2006), failed to recognize that the Law Against Discrimination affords to state residents protections that are wholly independent of those afforded by the federal Americans with Disabilities Act of 1990, and that the law against discrimination has provided such protections for many years prior to passage of the federal act.

Sec. 2. RCW 49.60.040 and 2006 c 4 s 4 are each amended to read as follows:

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

(1) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof;

(2) "Commission" means the Washington state human rights commission;

(3) "Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons, and does not include any religious or sectarian organization not organized for private profit;

(4) "Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person;

(5) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment;

(6) "Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees for an employer;

(7) "Marital status" means the legal status of being married, single, separated, divorced, or widowed;

(8) "National origin" includes "ancestry";

(9) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, sexual orientation, national origin, or with any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a ((~~disabled~~)) person with a disability, to be treated as not welcome, accepted, desired, or solicited;

(10) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of

human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private, including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;

(11) "Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein;

(12) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services;

(13) "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof;

(14) "Sex" means gender;

(15) "Sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth;

(16) "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur;

(17) "Complainant" means the person who files a complaint in a real estate transaction;

(18) "Respondent" means any person accused in a complaint or amended complaint of an unfair practice in a real estate transaction;

(19) "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred;

(20) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;

(21) "Covered multifamily dwelling" means: (a) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and (b) ground floor dwelling units in other buildings consisting of four or more dwelling units;

(22) "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building;

(23) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons;

(24) "Service animal" means an animal that is trained for the purpose of assisting or accommodating a ((~~disabled person's~~)) sensory, mental, or physical disability of a person with a disability;

(25)(a) "Disability" means the presence of a sensory, mental, or physical impairment that:

(i) Is medically cognizable or diagnosable; or

(ii) Exists as a record or history; or

(iii) Is perceived to exist whether or not it exists in fact.

(b) A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.

(c) For purposes of this definition, "impairment" includes, but is not limited to:

(i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or

(ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(d) Only for the purposes of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:

(i) The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or

(ii) The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

(e) For purposes of (d) of this subsection, a limitation is not substantial if it has only a trivial effect.

NEW SECTION. **Sec. 3.** This act is remedial and retroactive, and applies to all causes of action occurring before July 6, 2006, and to all causes of action occurring on or after the effective date of this act."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kline moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5340.

Senator Kline spoke in favor of the motion.

POINT OF INQUIRY

Senator Weinstein: "Would Senator Kline yield to a question? Senator Kline, in reading the new effective dates section of this bill, is it your intent to have this definition apply to all causes of action that occurred prior to the date of the McClarty decision, July 6, 2006, or will occur after the effective date of this act."

Senator Kline: "Yes Senator. This effective date was negotiated with various stake holders, including the Governor's office and the Department of Personnel. The intent is to have these provisions apply to causes of action that will arise based on actions that occurred prior to the McClarty decision on July 6, 2006 or based on actions that occur after the effective date of this bill. The provisions of the law will not apply to claims that arise solely based on actions that occurred between these two dates because some employers may have relied on the case to apply different policies and procedures during that time. Thank you."

MOTION

The President declared the question before the Senate to be the motion by Senator Kline that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5340.

Senator Kline spoke in favor of the motion.

The motion by Senator Kline carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5340 by voice vote.

Senators McCaslin, Carrell and Brandland spoke against final passage.

Senator Kline spoke in favor of final passage.

MOTION

Senator Hewitt moved that further consideration of Substitute Senate Bill No. 5340 be deferred and the bill it's place on the third reading calendar.

MOTION

Senator Schoesler demanded a roll call vote.

The President declared that at least one-sixth of the members joined the demand and the demand was sustained.

The President declared the question before the Senate to be the motion by Senator Hewitt to defer further consideration of Substitute Senate Bill No. 5340.

The Secretary called the roll on the motion by Senator Hewitt and the motion failed by the following vote: Yeas, 18; Nays, 30; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Brandland, Carrell, Clements, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 18.

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 30.

Excused: Senator Kohl-Welles - 1.

POINT OF INQUIRY

Senator Carrell: "Would the fair gentleman from the Thirty-Seventh District yield to a question? Senator Kline, there seems to be some disagreement as to the meaning of the wording in Senate Bill No. 5340 on page five where is sub iii, it is perceived to exist or is perceived to exist whether or not it exist in fact. Does this refer to perceived by the employer or the employee?"

Senator Kline: "There's a very simple answer to that. That's the employer. The person who is alledged to be discriminating based on an assumption which may or may not be true. That is perceived to exist whether or not it exist in fact. That's typically an employment situation, the employer not the employee."

Senator Carrell: "So this only refers to the employer's perception of the condition?"

Senator Kline: "Correct."

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5340, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5340, as amended by the House, 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, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, 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: Senators Holmquist and Honeyford - 2

Excused: Senator Kohl-Welles - 1

SUBSTITUTE SENATE BILL NO. 5340, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

Under suspension of rules SECOND SUBSTITUTE SENATE BILL NO. 5955 was returned to second reading for purpose of an amendment: 5955-S2 AMH SULP MCLA 293, and passed the House as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.415 RCW to read as follows:

SCHOOL DISTRICT LEADERSHIP ACADEMY. (1) Research supports the value of quality school and school district leadership. Effective leadership is critical to improving student learning and transforming underperforming schools and school districts into world-class learning centers.

(2) A public-private partnership is established to develop, pilot, and implement the Washington state leadership academy to focus on the development and enhancement of personal leadership characteristics and the teaching of effective practices and skills demonstrated by school and district administrators who are successful managers and instructional leaders. It is the goal of the academy to provide state-of-the-art programs and services across the state.

(3) Academy partners include the state superintendent and principal professional associations, private nonprofit foundations, institutions of higher education with approved educator preparation programs, the professional educator standards board, the office of the superintendent of public instruction, educational service districts, the state school business officers' association, and other entities identified by the partners. The partners shall designate an independent organization to act as the fiscal agent for the academy and shall establish a board of directors to oversee and direct the academy's finances, services, and programs. The academy shall be supported by a national research institution with demonstrated expertise in educational leadership.

(4) Initial development of academy course content and activities shall be supported by private funds. Initial tasks of the academy are to:

(a) Finalize a comprehensive design of the academy and the development of the curriculum frameworks for a comprehensive leadership development program that includes coursework, practicum, mentoring, and evaluation components;

(b) Develop curriculum for individual leadership topics;

(c) Pilot the curriculum and all program components; and

(d) Modify the comprehensive design, curriculum coursework, practicum, and mentoring programs based on the research results gained from pilot activities.

(5) The board of directors shall report semiannually to the superintendent of public instruction on the financial contributions provided by foundations and other organizations to support the work of the academy. The board of directors shall report by December 31st each year to the superintendent of public instruction on the programs and services provided, numbers of participants in the various academy activities, evaluation activities regarding program and participant outcomes, and plans for the academy's future development.

(6) The board of directors shall make recommendations for changes in superintendent and principal preparation programs, the administrator licensure system, and continuing education requirements.

NEW SECTION. **Sec. 2.** PROFESSIONAL EDUCATOR STANDARDS BOARD DUTIES. (1) The purpose of the duties in this section for the professional educator standards board is to take the next steps in developing quality teaching knowledge and skill in the state's teaching ranks. The duties build upon the current teacher development foundation that requires demonstrated teaching competency, requires evidence of positive impact on student learning, and focuses on furthering state kindergarten through twelfth grade learning goals through instructional skill alignment.

(2) The professional educator standards board shall:

(a) By December 2007:

(i) Adopt new knowledge and skill standards that prepare all individuals seeking residency teacher certification to integrate mathematics across all content areas; and

(ii) Adopt new certification requirements for individuals seeking residency teacher certification as elementary education or middle level and secondary mathematics teachers to assure adequate content and instructional strategy preparation to teach to the kindergarten through twelfth grades state mathematics and science standards;

(b) By June 2009:

(i) Set performance standards and develop, pilot, and implement a uniform and externally administered professional-level certification assessment based on demonstrated teaching skill. In the development of this assessment, consideration shall be given to changes in professional certification program components such as the culminating seminar;

(ii) Summarize its work in the development of the assessment in (b)(i) of this subsection in the annual reports required by RCW 28A.410.240; and

(iii) Review and revise the standards for higher education teacher preparation programs to incorporate updated practices to enhance teacher success in a knowledge and skill-based performance system that emphasizes strong content, applied learning, and personal, meaningful connections with students; and

(c) By December 2009, review and revise as needed teacher preparation standards and requirements to focus on diversity in cultural knowledge and respect.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.415 RCW to read as follows:

MATH, SCIENCE, AND TARGETED SECONDARY READING INITIATIVE. Sections 3 through 6 of this act represent core components of a comprehensive initiative to improve mathematics, science, and targeted secondary reading education and achievement through educator professional development and support. The initiative focuses on:

(1) A regional delivery system to provide professional development and support to schools and school districts through the educational service districts;

(2) A tiered support system that provides resources, services, assistance, and intervention for schools and districts, depending on their levels of need;

(3) Leveraging existing public and private resources and district-initiated activities; and

(4) Accountability through outcome-oriented performance agreements, contracts, reporting, and data collection.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.415 RCW to read as follows:

MATH, SCIENCE, AND TARGETED SECONDARY READING INITIATIVE. (1) Subject to funds appropriated for this purpose, the mathematics, science, and targeted secondary reading improvement initiative shall provide the capacity and resources for the superintendent of public instruction, educational service districts, school districts, and schools to conduct a broad range of activities, depending on the level of need and priority of the school or district. The focus of the initiative is on building and enhancing the quality of mathematics and science instruction.

(2) Activities supported by the initiative include, but are not limited to:

(a) Targeted professional development in content knowledge, content-specific pedagogy, differentiated instruction, effective teaching strategies, learning modules, and mathematics and science standards and curriculum;

(b) Use and analysis of diagnostic assessments and other data on student achievement to improve instruction;

(c) Curriculum alignment and development or purchase of supplemental materials;

(d) Integration of technology; and

(e) Mentors and instructional coaches.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.415 RCW to read as follows:

MATH, SCIENCE, AND TARGETED SECONDARY READING INITIATIVE. (1) In support of the mathematics, science, and targeted secondary reading improvement initiative, the office of the superintendent of public instruction shall:

(a) In collaboration with the educational service districts, develop a methodology for distributing funds appropriated for activities under the tiered support system in this section among the educational service districts and among the three tiers of support. The methodology shall take into account the anticipated demand and need for services by school districts in each tier and the size of those school districts. The methodology shall also reflect a higher priority and greater need for support and resources for schools and districts in tier three;

(b) Develop guidelines for educational service districts in administering grants, developing district improvement agreements, and implementing intensive intervention and support services. The guidelines shall not require all educational service districts to follow the same procedures in all circumstances, but shall ensure general equity for school districts across the state in how the districts may access resources under the initiative and the activities and services that are provided by the educational service districts;

(c) Identify the schools and school districts eligible for tier three intensive intervention and support, based on low student performance in mathematics and science. The superintendent shall consider whether the school has the capacity to feasibly integrate additional resources with any existing state or federal improvement funds. To the maximum extent possible, the identification of and the intensive intervention services provided to tier three schools and districts shall align with the accountability plan developed by the state board of education; and

(d) In collaboration with the educational service districts, develop guidelines and a common reporting format for collecting data and information about the activities and outcomes under the initiative and designate one or more common diagnostic assessments for districts to use in reporting and monitoring student achievement.

(2)(a) If funds are appropriated, resources for the mathematics, science, and targeted secondary reading improvement initiative shall be provided through the office of the superintendent of public instruction and educational service districts to schools and school districts based on a tiered support system. The legislature's intent is that resources from the mathematics, science, and targeted secondary reading improvement initiative are provided over a four-year period.

(b) Tier one: Initiative grants. School districts may apply on a competitive basis to their educational service district for grants to support activities to improve mathematics, science, and secondary reading instruction. A district may contract with the educational service district for services, use the grant for district-initiated activities, or both. Tier one districts must demonstrate how district resources and resources from public-private partnerships shall be used to leverage the grant funds. Tier one grant recipients must identify measurable outcomes from the activities supported by the grant and report results in a prescribed format, including student achievement data from designated diagnostic assessments.

(c) Tier two: Improvement agreements. School districts may work with the office of the superintendent of public instruction and educational service districts to plan, develop, and implement a mathematics, science, and targeted secondary reading improvement initiative tailored to the needs of the district. The office of the superintendent of public instruction, the educational service district, and the school district shall develop a joint agreement that identifies the services and support to be provided by the educational service district, the activities to be conducted by the district using improvement agreement funds, and the expected measurable outcomes from the activities. Recipients of funds under a tier two improvement agreement must report results of the activities supported by the agreement in a prescribed format, including student achievement data from designated diagnostic assessments.

(d) Tier three: Intensive intervention and support. School districts and schools with low student performance in mathematics, science, and/or secondary reading as identified by the superintendent of public instruction under subsection (1) of this section are eligible for intensive intervention and support coordinated by the office of the superintendent of public instruction and/or the educational service district. School districts or individual schools may receive tier three support. Recipients of funds under tier three support must:

(i) Participate in an audit of the mathematics, science, and secondary reading instructional delivery system, including policies and practices, curriculum alignment, teacher pedagogy and content knowledge, and assessment of overall climate and practice compared to best practices;

(ii) Develop, with assistance from the educational service district, a school or district intervention plan that focuses on areas of highest need and provides intensive professional development in those areas;

(iii) Participate in professional development using the services of a technical assistance team that includes a trained and experienced facilitator and mathematics, science, or reading instructional coaches to provide job-embedded professional development; and

(iv) Identify measurable outcomes from the activities supported by the grant and report results in a prescribed format, including student achievement data from designated diagnostic assessments.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.415 RCW to read as follows:

MATH, SCIENCE, AND TARGETED SECONDARY READING INITIATIVE. (1) Educational service districts shall coordinate with the superintendent of public instruction to develop and maintain the capacity to provide administrative, professional development, technical assistance, and intervention services under the mathematics, science, and targeted secondary reading improvement initiative to support school districts as required under section 5 of this act, including:

(a) Administering, reviewing, and monitoring grants for tier one grant recipients and providing contracted services;

(b) Developing, administering, and monitoring tier two improvement agreements and providing support and services under the terms of the agreements; and

(c) Coordinating and providing the intensive intervention and support for tier three schools and districts, including the instructional audit, intervention plan, and intervention team.

(2) Educational service districts shall also:

(a) Develop public-private partnerships and seek external grants and funds to leverage the state resources provided to support the mathematics and science improvement initiative;

(b) Collect, compile, and disseminate data and information about the activities and outcomes under the initiative, including student achievement data from designated diagnostic assessments; and

(c) Develop appropriate reporting and monitoring procedures to ensure accountability for the use of funds distributed to school districts through the tiered support system and for the achievement of desired outcomes.

NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.415 RCW to read as follows:

REGIONAL PROFESSIONAL DEVELOPMENT PARTNERSHIPS. The office of the superintendent of public instruction shall:

(1) Create partnerships with the educational service districts or public or private institutions of higher education with approved educator preparation programs to develop and deliver professional development learning opportunities for educators that fulfill the goals and address the activities described in sections 3 through 6 and section 9 of this act. The partnerships shall:

(a) Support school districts by providing professional development leadership, courses, and consultation services to school districts in their implementation of professional development activities, including the activities described in sections 3 through 6 and section 9 of this act; and

(b) Support one another in the delivery of state-level and regional-level professional development activities such as state conferences and regional accountability institutes; and

(2) Enter into a performance agreement with each educational service district to clearly articulate partner responsibilities and assure fidelity for the delivery of professional development initiatives including job-embedded practices. Components of such performance agreements shall include:

(a) Participation in the development of various professional development workshops, programs, and activities;

(b) Characteristics and qualifications of professional development staff supported by the program;

(c) Methods to ensure consistent delivery of professional development services; and

(d) Reporting responsibilities related to services provided, program participation, outcomes, and recommendations for service improvement.

Sec. 8. RCW 28A.310.350 and 1977 ex.s. c 283 s 10 are each amended to read as follows:

EDUCATIONAL SERVICE DISTRICTS. The basic core services and cost upon which educational service districts are budgeted shall include, but not be limited to, the following:

(1) Educational service district administration and facilities such as office space, maintenance and utilities;

(2) Cooperative administrative services such as assistance in carrying out procedures to abolish sex and race bias in school programs, fiscal services, grants management services, special education services and transportation services;

(3) Personnel services such as certification/registration services;

(4) Learning resource services such as audio visual aids;

(5) Cooperative curriculum services such as health promotion and health education services, in-service training, workshops and assessment; ((~~and~~))

(6) Professional development services identified by statute or the omnibus appropriations act; and

(7) Special needs of local education agencies.

NEW SECTION. **Sec. 9.** A new section is added to chapter 28A.415 RCW to read as follows:

MATHEMATICS AND SCIENCE TEACHER PROFESSIONAL DEVELOPMENT. (1) Subject to funds appropriated for this purpose, targeted professional development programs, to be known as learning improvement days, are authorized to further the development of outstanding mathematics, science, and reading teaching and learning opportunities in the state of Washington. The intent of this section is to provide guidance for the learning improvement days in the omnibus appropriations act. The learning improvement days authorized in this section shall not be considered part of the definition of basic education.

(2) The expected outcomes of these programs are:

(a) Provision of meaningful, targeted professional development for all teachers in mathematics, science, or reading;

(b) Increased knowledge and instructional skill for mathematics, science, or reading teachers;

(c) Increased use of curriculum materials with supporting diagnostic and supplemental materials that align with state standards;

(d) Skillful guidance for students participating in alternative assessment activities;

(e) Increased rigor of course offerings especially in mathematics, science, and reading;

(f) Increased student opportunities for focused, applied mathematics and science classes;

(g) Increased student success on state achievement measures; and

(h) Increased student appreciation of the value and uses of mathematics, science, and reading knowledge and exploration of related careers.

(3) School districts receiving resources under this section shall submit reports to the superintendent of public instruction regarding the use of the funds; how the use of the funds is associated with measurable improvement in the expected outcomes described under subsection (2) of this section; and how other professional development resources and programs authorized in statute or in the omnibus appropriations act contribute to the expected outcomes. The superintendent of public instruction and the office of financial management shall collaborate on required report content and format.

NEW SECTION. **Sec. 10.** A new section is added to chapter 28A.415 RCW to read as follows:

RECRUITING WASHINGTON TEACHERS. (1) The recruiting Washington teachers program is established to recruit and provide training and support for high school students to enter the teaching profession, especially in teacher shortage areas and among under-represented groups and multilingual, multicultural students. The program shall be administered by the professional educator standards board.

(2) The program shall consist of the following components:

(a) Targeted recruitment of diverse students, including but not limited to students from under-represented groups and multilingual, multicultural students in grades nine through twelve through outreach and communication strategies. The focus of recruitment efforts shall be on encouraging students to consider and explore becoming future teachers in mathematics, science, bilingual education, special education, and English as a second language. Program enrollment is not limited to students from under-represented groups or multilingual, multicultural students;

(b) A curriculum that provides future teachers with opportunities to observe classroom instruction at all grade levels; includes preteaching internships at all grade levels with a focus on shortage areas; and covers such topics as lesson planning, learning styles, student learning data and information, the achievement gap, cultural competency, and education policy;

(c) Academic and community support services for students to help them overcome possible barriers to becoming future teachers, such as supplemental tutoring; advising on college readiness, applications, and financial aid processes; and mentoring; and

(d) Future teacher camps held on college campuses where students can attend workshops and interact with college faculty and current teachers.

(3) As part of its administration of the program, the professional educator standards board shall:

(a) Develop the curriculum and program guidelines in consultation with an advisory group of teachers, representatives of teacher preparation programs, teacher candidates, students, and representatives of diverse communities;

(b) Subject to funds appropriated for this purpose, allocate grant funds through a competitive process to partnerships of high schools, teacher preparation programs, and community-based organizations to design and deliver programs that include the components under subsection (2) of this section; and

(c) Conduct an evaluation of the effectiveness of current strategies and programs for recruiting diverse teachers, especially multilingual, multicultural teachers, in Washington and in other states. The board shall use the findings from the

evaluation to revise the recruiting Washington teachers program as necessary and make other recommendations to teacher preparation programs or the legislature.

NEW SECTION. **Sec. 11.** The following acts or parts of acts are each repealed:

(1) RCW 28A.300.350 (Excellence in mathematics training program) and 1999 c 347 s 2;

(2) RCW 28A.415.200 (Minority teacher recruitment program--Intent) and 1989 c 146 s 1; and

(3) RCW 28A.415.205 (Minority teacher recruitment program) and 2005 c 497 s 211, 1991 c 238 s 75, & 1989 c 146 s 2.

NEW SECTION. **Sec. 12.** Captions used in this act are not any part of the law."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Tom moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5955.

Senator Tom spoke in favor of the motion.

Senator Holmquist spoke against the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Tom that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5955.

The motion by Senator Tom carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5955 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5955, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5955, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 11; Absent, 3; Excused, 1.

Voting yea: Senators Benton, Berkey, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Shin, Spanel, Tom and Weinstein - 34

Voting nay: Senators Brandland, Clements, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, Sheldon, Stevens, Swecker and Zarelli - 11

Absent: Senators Brown, Poulsen and Pridemore - 3

Excused: Senator Kohl-Welles - 1

SECOND SUBSTITUTE SENATE BILL NO. 5955, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 1277 and asks Senate to recede therefrom.

and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 1277.

The President declared the question before the Senate to be motion by Senator Kilmer that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 1277.

The motion by Senator Kilmer carried and the Senate receded from its position in the Senate amendment(s) to Second Substitute House Bill No. 1277.

MOTION

On motion of Senator Kilmer, the rules were suspended and Second Substitute House Bill No. 1277 was returned to second reading for the purposes of amendment.

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 striking amendment by Senator Prentice 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~~)) seven million five hundred thousand 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.

(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.~~

~~(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:

(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.

(c) Except as provided in RCW 39.102.050(2), a total of no more than five million 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~~))

(d) 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~~

~~(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.

(e)(i) Except as provided in this subsection (4)(e), 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 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 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~~)) seven million five hundred thousand 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 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:

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."

Senator Kilmer spoke in favor of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Prentice to Second Substitute House Bill No. 1277.

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

MOTION

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

On page 1, line 2 of the title, after "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, 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, Kline, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, Kohl-Welles, Poulsen and Pridemore - 4

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.

MOTION

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

SECOND READING

SENATE BILL NO. 6157, by Senator Prentice

Relating to human services. Revised for 1st Substitute: Changing provisions affecting offenders who are leaving confinement.

MOTION

On motion of Senator Hargrove, Substitute Senate Bill No. 6157 was substituted for Senate Bill No. 6157 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senator Hargrove and others be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The people of the state of Washington expect to live in safe communities in which the threat of crime is minimized. Attempting to keep communities safe by building more prisons and paying the costs of incarceration has proven to be expensive to taxpayers. Incarceration is a necessary consequence for some offenders, however, the vast majority of those offenders will eventually return to their communities. Many of these former offenders will not have had the opportunity to address the deficiencies that may have contributed to their criminal behavior. Persons who do not have basic literacy and job skills, or who are ill-equipped to make the behavioral changes necessary to successfully function in the community, have a high risk of reoffense. Recidivism represents serious costs to victims, both financial and nonmonetary in nature, and also burdens state and local governments with those offenders who recycle through the criminal justice system.

The legislature believes that recidivism can be reduced and a substantial cost savings can be realized by utilizing evidence-based, research-based, and promising programs to address offender deficits, developing and better coordinating the reentry efforts of state and local governments and local communities. Research shows that if quality assurances are adhered to, implementing an optimal portfolio of evidence-based programming options for offenders who are willing to take advantage of such programs can have a notable impact on recidivism.

While the legislature recognizes that recidivism cannot be eliminated and that a significant number of offenders are unwilling or unable to work to develop the tools necessary to successfully reintegrate into society, the interests of the public overall are better served by better preparing offenders while incarcerated, and continuing those efforts for those recently released from prison or jail, for successful, productive, and healthy transitions to their communities. Educational, employment, and treatment opportunities should be designed to address individual deficits and ideally give offenders the ability to function in society. In order to foster reintegration, this act recognizes the importance of a strong partnership between the department of corrections, local governments, law enforcement, social service providers, and interested members of communities across our state.

PART I - COMMUNITY TRANSITION COORDINATION NETWORKS

NEW SECTION. **Sec. 101.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) A "community transition coordination network" is a system of coordination that facilitates partnerships between supervision and service providers. It is anticipated that an offender who is released to the community will be able to utilize a community transition coordination network to be connected directly to the supervision and/or services needed for successful reentry.

(2) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous

populations demonstrating that the program or practice is effective in reducing recidivism for the population.

(3) An "individual reentry plan" means the plan to prepare an offender for release into the community. A reentry plan is developed collaboratively between the supervising authority and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offenders' risks and needs. An individual reentry plan describes actions that should occur to prepare individual offenders for release from jail or prison and specifies the supervision and/or services he or she will experience in the community, taking into account no contact provisions of the judgment and sentence. An individual reentry plan should be updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

(4) "Local community policing and supervision programs" include probation, work release, jails, and other programs operated by local police, courts, or local correctional agencies.

(5) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

(6) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(7) "Supervising authority" means the agency or entity that has the responsibility for supervising an offender.

NEW SECTION. **Sec. 102.** (1) Each county or group of counties shall conduct an inventory of the services and resources available in the county or group of counties to assist offenders in reentering the community.

(2) In conducting its inventory, the county or group of counties should consult with the following:

(a) The department of corrections, including community corrections officers;

(b) The department of social and health services in applicable program areas;

(c) Representatives from county human services departments and, where applicable, multicounty regional support networks;

(d) Local public health jurisdictions;

(e) City and county law enforcement;

(f) Local probation/supervision programs;

(g) Local community and technical colleges;

(h) The local worksource center operated under the statewide workforce investment system;

(i) Faith-based and nonprofit organizations providing assistance to offenders;

(j) Housing providers;

(k) Crime victims service providers; and

(l) Other community stakeholders interested in reentry efforts.

(3) The inventory must include, but is not limited to:

(a) A list of programs available through the entities listed in subsection (2) of this section and services currently available in the community for offenders including, but not limited to, housing assistance, employment assistance, education, vocational training, parenting education, financial literacy, treatment for substance abuse, mental health, anger management, life skills training, specialized treatment programs such as batterers treatment and sex offender treatment, and any other service or program that will assist the former offender to successfully transition into the community; and

(b) An indication of the availability of community representatives or volunteers to assist the offender with his or her transition.

(4) No later than January 1, 2008, each county or group of counties shall present its inventory to the policy advisory committee convened in section 103(8) of this act.

NEW SECTION. **Sec. 103.** (1) The department of community, trade, and economic development shall establish a community transition coordination network pilot program for the purpose of awarding grants to counties or groups of counties for implementing coordinated reentry efforts for offenders returning to the community. Grant awards are subject to the availability of amounts appropriated for this specific purpose.

(2) By September 1, 2007, the Washington state institute for public policy shall, in consultation with the department of community, trade, and economic development, develop criteria for the counties in conducting its evaluation as directed by subsection (6)(c) of this section.

(3) Effective February 1, 2008, any county or group of counties may apply for participation in the community transition coordination network pilot program by submitting a proposal for a community transition coordination network.

(4) A proposal for a community transition coordination network initiated under this section must be collaborative in nature and must seek locally appropriate evidence-based or research-based solutions and promising practices utilizing the participation of public and private entities or programs to support successful, community-based offender reentry.

(5) In developing a proposal for a community transition coordination network, counties or groups of counties and the department of corrections shall collaborate in addressing:

(a) Efficiencies that may be gained by sharing space or resources in the provision of reentry services to offenders;

(b) Mechanisms for communication of information about offenders, including the feasibility of shared access to databases;

(c) Partnerships to establish neighborhood corrections initiatives as defined in section 302 of this act.

(6) A proposal for a community transition coordination network must include:

(a) Descriptions of collaboration and coordination between local community policing and supervision programs and those agencies and entities identified in the inventory conducted pursuant to section 102 of this act to address the risks and needs of offenders under a participating county or city misdemeanant probation or other supervision program including:

(i) A proposed method of assessing offenders to identify the offenders' risks and needs. Counties and cities are encouraged, where possible, to make use of assessment tools developed by the department of corrections in this regard;

(ii) A proposal for developing and/or maintaining an individual reentry plan for offenders;

(iii) Connecting offenders to services and resources that meet the offender's needs as identified in his or her individual reentry plan including the identification of community representatives or volunteers that may assist the offender with his or her transition; and

(iv) The communication of assessment information, individual reentry plans, and service information between parties involved with offender's reentry;

(b) Mechanisms to provide information to former offenders regarding services available to them in the community regardless of the length of time since the offender's release and regardless of whether the offender was released from prison or jail. Mechanisms shall, at a minimum, provide for:

(i) Maintenance of the information gathered in section 102 of this act regarding services currently existing within the community that are available to offenders; and

(ii) Coordination of access to existing services with community providers and provision of information to offenders regarding how to access the various type of services and resources that are available in the community; and

(c) An evaluation of the county's or group of counties' readiness to implement a community transition coordination network including the social service needs of offenders in general, capacity of local facilities and resources to meet offenders' needs, and the cost to implement and maintain a community transition coordination network for the duration of the pilot project.

(7) The department of community, trade, and economic development shall review county applications for funding through the community transition coordination network pilot

program and, no later than April 1, 2008, shall select up to four counties or groups of counties. In selecting pilot counties or regions, the department shall consider the extent to which the proposal:

(a) Addresses the requirements set out in subsection (6) of this section;

(b) Proposes effective partnerships and coordination between local community policing and supervision programs, social service and treatment providers, and the department of corrections' community justice center, if a center is located in the county or region;

(c) Focuses on measurable outcomes such as increased employment and income, treatment objectives, maintenance of stable housing, and reduced recidivism;

(d) Contributes to the diversity of pilot programs, considering factors such as geographic location, size of county or region, and reentry services currently available. The department shall ensure that a grant is awarded to at least one rural county or group of counties and at least one county or group of counties where a community justice center operated by the department of corrections is located; and

(e) Is feasible, given the evaluation of the social service needs of offenders, the existing capacity of local facilities and resources to meet offenders' needs, and the cost to implement a community transition coordination network in the county or group of counties.

(8) The department of community, trade, and economic development shall convene a policy advisory committee composed of representatives from the senate, the house of representatives, the governor's office of financial management, the department of corrections, to include one representative who is a community corrections officer, the office of crime victims' advocacy, the Washington state association of counties, association of Washington cities, a nonprofit provider of reentry services, and an ex-offender who has discharged the terms of his or her sentence. The advisory committee shall meet no less than annually to receive status reports on the implementation of community transition coordination networks, review annual reports and the pilot project evaluations submitted pursuant to section 105 of this act, and identify evidence-based, research-based, and promising practices for other counties seeking to establish community transition coordination networks.

(9) Pilot networks established under this section shall extend for a period of four fiscal years, beginning July 1, 2008, and ending June 30, 2012.

(10) This section expires June 30, 2013.

NEW SECTION. **Sec. 104.** (1) Nothing in section 103 of this act is intended to shift the supervising responsibility or sanctioning authority from one government entity to another or give a community transition coordination network oversight responsibility for those activities or allow imposition of civil liability where none existed previously.

(2) An individual reentry plan may not be used as the basis of liability against local government entities, or its officers or employees.

NEW SECTION. **Sec. 105.** (1) It is the intent of the legislature to provide funding for this project.

(2) Counties receiving state funds must:

(a) Demonstrate the funds allocated pursuant to this section will be used only for those purposes in establishing and maintaining a community transition coordination network;

(b) Consult with the Washington state institute for public policy at the inception of the pilot project to refine appropriate outcome measures and data tracking systems;

(c) Submit to the advisory committee established in section 103(8) of this act an annual progress report by June 30th of each year of the pilot project to report on identified outcome measures and identify evidence-based, research-based, or promising practices;

(d) Cooperate with the Washington state institute for public policy at the completion of the pilot project to conduct an evaluation of the project.

(3) The Washington state institute for public policy shall provide direction to counties in refining appropriate outcome measures for the pilot projects and establishing data tracking systems. At the completion of the pilot project, the institute shall conduct an evaluation of the projects including the benefit-cost ratio of service delivery through a community transition coordination network, associated reductions in recidivism, and identification of evidence-based, research-based, or promising practices. The institute shall report to the governor and the legislature with the results of its evaluation no later than December 31, 2012.

(4) This section expires June 30, 2013.

NEW SECTION. **Sec. 106.** (1) The community transition coordination network account is created in the state treasury. The account may receive legislative appropriations, gifts, and grants. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of section 103 of this act.

(2) This section expires June 30, 2013.

NEW SECTION. **Sec. 107.** Nothing in this act creates an entitlement for a county or group of counties to receive funding under the program created in section 103 of this act, nor an obligation for a county or group of counties to maintain a community transition coordination network established pursuant to section 103 of this act upon expiration of state funding.

Sec. 108. RCW 72.09.300 and 1996 c 232 s 7 are each amended to read as follows:

(1) Every county legislative authority shall by resolution or ordinance establish a local law and justice council. The county legislative authority shall determine the size and composition of the council, which shall include the county sheriff and a representative of the municipal police departments within the county, the county prosecutor and a representative of the municipal prosecutors within the county, a representative of the city legislative authorities within the county, a representative of the county's superior, juvenile, district, and municipal courts, the county jail administrator, the county clerk, the county risk manager, and the secretary of corrections and his or her designees. Officials designated may appoint representatives.

(2) A combination of counties may establish a local law and justice council by intergovernmental agreement. The agreement shall comply with the requirements of this section.

(3) The local law and justice council ((~~shall develop a local law and justice plan for the county. The council shall design the elements and scope of the plan, subject to final approval by the county legislative authority. The general intent of the plan shall include seeking means to maximize~~)) may address issues related to:

(a) Maximizing local resources including personnel and facilities, ((~~reduce~~)) reducing duplication of services, and ((~~share~~)) sharing resources between local and state government in order to accomplish local efficiencies without diminishing effectiveness((~~. The plan shall also include a section on jail management. This section may include the following elements:~~

~~(a) A description of current jail conditions, including whether the jail is overcrowded;~~

~~(b) A description of potential alternatives to incarceration;~~

~~(c) A description of current jail resources;~~

~~(d) A description of the jail population as it presently exists and how it is projected to change in the future;~~

~~(e) A description of projected future resource requirements;~~

~~(f) A proposed action plan, which shall include recommendations to maximize resources, maximize the use of intermediate sanctions, minimize overcrowding, avoid duplication of services, and effectively manage the jail and the offender population;~~

~~(g) A list of proposed advisory jail standards and methods to effect periodic quality assurance inspections of the jail;~~

~~(h) A proposed plan to collect, synthesize, and disseminate technical information concerning local criminal justice activities, facilities, and procedures;~~

~~(i) A description of existing and potential services for offenders including employment services, substance abuse treatment, mental health services, and housing referral services.~~

~~(4) The council may propose other elements of the plan, which shall be subject to review and approval by the county legislative authority, prior to their inclusion into the plan.~~

~~(5)~~)));

(b) Jail management;

(c) Mechanisms for communication of information about offenders, including the feasibility of shared access to databases; and

(d) Partnerships between the department and local community policing and supervision programs to facilitate supervision of offenders under the respective jurisdictions of each and timely response to an offender's failure to comply with the terms of supervision.

(4) The county legislative authority may request technical assistance in ((~~developing or implementing the plan from~~)) coordinating services with other units or agencies of state or local government, which shall include the department, the office of financial management, and the Washington association of sheriffs and police chiefs.

(((~~(6)~~))) (5) Upon receiving a request for assistance from a county, the department may provide the requested assistance.

(((~~(7)~~))) (6) The secretary may adopt rules for the submittal, review, and approval of all requests for assistance made to the department. ((~~The secretary may also appoint an advisory committee of local and state government officials to recommend policies and procedures relating to the state and local correctional systems and to assist the department in providing technical assistance to local governments. The committee shall include representatives of the county sheriffs, the police chiefs, the county prosecuting attorneys, the county and city legislative authorities, and the jail administrators. The secretary may contract with other state and local agencies and provide funding in order to provide the assistance requested by counties.~~

~~(8) The department shall establish a base level of state correctional services, which shall be determined and distributed in a consistent manner statewide. The department's contributions to any local government, approved pursuant to this section, shall not operate to reduce this base level of services.~~

~~(9) The council shall establish an advisory committee on juvenile justice proportionality. The council shall appoint the county juvenile court administrator and at least five citizens as advisory committee members. The citizen advisory committee members shall be representative of the county's ethnic and geographic diversity. The advisory committee members shall serve two-year terms and may be reappointed. The duties of the advisory committee include:~~

~~(a) Monitoring and reporting to the sentencing guidelines commission on the proportionality, effectiveness, and cultural relevance of:~~

~~(i) The rehabilitative services offered by county and state institutions to juvenile offenders; and~~

~~(ii) The rehabilitative services offered in conjunction with diversions, deferred dispositions, community supervision, and parole;~~

~~(b) Reviewing citizen complaints regarding bias or disproportionality in that county's juvenile justice system;~~

~~(c) By September 1 of each year, beginning with 1995, submit to the sentencing guidelines commission a report summarizing the advisory committee's findings under (a) and (b) of this subsection.~~))

NEW SECTION. **Sec. 109.** Sections 101 through 107 of this act constitute a new chapter in Title 72 RCW.

PART II - INDIVIDUAL REENTRY PLAN

NEW SECTION. **Sec. 201.** Individual reentry plans are intended to be a tool for the department of corrections to identify the needs of an offender. Individual reentry plans are meant to assist the department in targeting programming and services to offenders with the greatest need and to the extent that those services are funded and available. The state cannot meet every need that may have contributed to every offender's criminal proclivities. Further, an individual reentry plan, and the programming resulting from that plan, are not a guarantee that an offender will not recidivate. Rather, the legislature intends that by identifying offender needs and offering programs that have been proven to reduce the likelihood of reoffense, the state will benefit by an overall reduction in recidivism.

Sec. 202. RCW 72.09.015 and 2004 c 167 s 6 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Adult basic education" means education or instruction designed to achieve general competence of skills in reading, writing, and oral communication, including English as a second language and preparation and testing services for obtaining a high school diploma or a general equivalency diploma.

(2) "Base level of correctional services" means the minimum level of field services the department of corrections is required by statute to provide for the supervision and monitoring of offenders.

(((~~(2)~~))) (3) "Contraband" means any object or communication the secretary determines shall not be allowed to be: (a) Brought into; (b) possessed while on the grounds of; or (c) sent from any institution under the control of the secretary.

(((~~(3)~~))) (4) "County" means a county or combination of counties.

(((~~(4)~~))) (5) "Department" means the department of corrections.

(((~~(5)~~))) (6) "Earned early release" means earned release as authorized by RCW 9.94A.728.

(((~~(6)~~))) (7) "Evidence-based" means a program or practice that has had multiple-site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective in reducing recidivism for the population.

(8) "Extended family visit" means an authorized visit between an inmate and a member of his or her immediate family that occurs in a private visiting unit located at the correctional facility where the inmate is confined.

(((~~(7)~~))) (9) "Good conduct" means compliance with department rules and policies.

(((~~(8)~~))) (10) "Good performance" means successful completion of a program required by the department, including an education, work, or other program.

(((~~(9)~~))) (11) "Immediate family" means the inmate's children, stepchildren, grandchildren, great grandchildren, parents, stepparents, grandparents, great grandparents, siblings, and a person legally married to an inmate. "Immediate family" does not include an inmate adopted by another inmate or the immediate family of the adopted or adopting inmate.

(((~~(10)~~))) (12) "Indigent inmate," "indigent," and "indigency" mean an inmate who has less than a ten-dollar balance of disposable income in his or her institutional account on the day a request is made to utilize funds and during the thirty days previous to the request.

(((~~(11)~~))) (13) "Individual reentry plan" means the plan to prepare an offender for release into the community. It should be developed collaboratively between the department and the offender and based on an assessment of the offender using a standardized and comprehensive tool to identify the offenders' risks and needs. The individual reentry plan describes actions that should occur to prepare individual offenders for release from prison or jail, specifies the supervision and services they will experience in the community, and describes an offender's eventual discharge to aftercare upon successful completion of

supervision. An individual reentry plan is updated throughout the period of an offender's incarceration and supervision to be relevant to the offender's current needs and risks.

(14) "Inmate" means a person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

((~~(12)~~)) (15) "Privilege" means any goods or services, education or work programs, or earned early release days, the receipt of which are directly linked to an inmate's (a) good conduct; and (b) good performance. Privileges do not include any goods or services the department is required to provide under the state or federal Constitution or under state or federal law.

((~~(13)~~)) (16) "Promising practice" means a practice that presents, based on preliminary information, potential for becoming a research-based or consensus-based practice.

(17) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(18) "Secretary" means the secretary of corrections or his or her designee.

((~~(14)~~)) (19) "Significant expansion" includes any expansion into a new product line or service to the class I business that results from an increase in benefits provided by the department, including a decrease in labor costs, rent, or utility rates (for water, sewer, electricity, and disposal), an increase in work program space, tax advantages, or other overhead costs.

((~~(15)~~)) (20) "Superintendent" means the superintendent of a correctional facility under the jurisdiction of the Washington state department of corrections, or his or her designee.

((~~(16)~~)) (21) "Unfair competition" means any net competitive advantage that a business may acquire as a result of a correctional industries contract, including labor costs, rent, tax advantages, utility rates (water, sewer, electricity, and disposal), and other overhead costs. To determine net competitive advantage, the correctional industries board shall review and quantify any expenses unique to operating a for-profit business inside a prison.

((~~(17)~~)) (22) "Vocational training" or "vocational education" means "vocational education" as defined in RCW 72.62.020.

(23) "Washington business" means an in-state manufacturer or service provider subject to chapter 82.04 RCW existing on June 10, 2004.

((~~(18)~~)) (24) "Work programs" means all classes of correctional industries jobs authorized under RCW 72.09.100.

NEW SECTION. **Sec. 203.** A new section is added to chapter 72.09 RCW to read as follows:

(1) The department of corrections shall develop an individual reentry plan as defined in RCW 72.09.015 for every offender who is committed to the jurisdiction of the department except:

(a) Offenders who are sentenced to life without the possibility of release or sentenced to death under chapter 10.95 RCW; and

(b) Offenders who are subject to the provisions of 8 U.S.C. Sec. 1227.

(2) The individual reentry plan may be one document, or may be a series of individual plans that combine to meet the requirements of this section.

(3) In developing individual reentry plans, the department shall assess all offenders using standardized and comprehensive tools to identify the criminogenic risks, programmatic needs, and educational and vocational skill levels for each offender. The assessment tool should take into account demographic biases, such as culture, age, and gender, as well as the needs of the offender, including any learning disabilities, substance abuse or mental health issues, and social or behavior deficits.

(4)(a) The initial assessment shall be conducted as early as sentencing, but, whenever possible, no later than forty-five days of being sentenced to the jurisdiction of the department of corrections.

(b) The offender's individual reentry plan shall be developed as soon as possible after the initial assessment is conducted, but, whenever possible, no later than sixty days after completion of the assessment, and shall be periodically reviewed and updated as appropriate.

(5) The individual reentry plan shall, at a minimum, include:

(a) A plan to maintain contact with the inmate's children and family, if appropriate. The plan should determine whether parenting classes, or other services, are appropriate to facilitate successful reunification with the offender's children and family;

(b) An individualized portfolio for each offender that includes the offender's education achievements, certifications, employment, work experience, skills, and any training received prior to and during incarceration; and

(c) A plan for the offender during the period of incarceration through reentry into the community that addresses the needs of the offender including education, employment, substance abuse treatment, mental health treatment, family reunification, and other areas which are needed to facilitate a successful reintegration into the community.

(6)(a) Prior to discharge of any offender, the department shall:

(i) Evaluate the offender's needs and, to the extent possible, connect the offender with existing services and resources that meet those needs; and

(ii) Connect the offender with a community justice center and/or community transition coordination network in the area in which the offender will be residing once released from the correctional system if one exists.

(b) If the department recommends partial confinement in an offender's individual reentry plan, the department shall maximize the period of partial confinement for the offender as allowed pursuant to RCW 9.94A.728 to facilitate the offender's transition to the community.

(7) The department shall establish mechanisms for sharing information from individual reentry plans to those persons involved with the offender's treatment, programming, and reentry, when deemed appropriate. When feasible, this information shall be shared electronically.

(8)(a) In determining the county of discharge for an offender released to community custody or community placement, the department may not approve a residence location that is not in the offender's county of origin unless it is determined by the department that the offender's return to his or her county of origin would be inappropriate considering any court-ordered condition of the offender's sentence, victim safety concerns, negative influences on the offender in the community, or the location of family or other sponsoring persons or organizations that will support the offender.

(b) If the offender is not returned to his or her county of origin, the department shall provide the law and justice council of the county in which the offender is placed with a written explanation.

(c) For purposes of this section, the offender's county of origin means the county of the offender's first felony conviction in Washington.

(9) Nothing in this section creates a vested right in programming, education, or other services.

PART III - PARTIAL CONFINEMENT AND SUPERVISION

NEW SECTION. **Sec. 301.** (1) The legislature intends that Washington's work release centers be transformed into residential reentry centers with the capacity to provide or connect offenders with the full range of reentry services to achieve measurable outcomes. The Washington state institute

for public policy shall conduct a comprehensive analysis and evaluation of residential reentry centers and work release facilities to identify evidence-based, research-based, and promising practices or programs for the state of Washington and the necessary performance measures that show the greatest quality, effectiveness, and efficiency of the program on key outcomes. The research should include an examination of reentry and work release practices in both urban and rural areas and both inside and outside of the state of Washington. The institute should identify what services or combination of services should be provided to participants of residential reentry centers and the length of time services should be provided to optimize the successful transition of an offender back into society.

(2) By May 1, 2008, the secretary of the department of corrections, or the secretary's designee, shall convene and chair a work group to review current laws and policy regarding work release.

(3) In addition to the secretary of the department of corrections, the following shall be members of the work group: A representative appointed by the governor, a community corrections officer, a representative of the Washington association of prosecuting attorneys, a representative of the superior court judges association, a member selected by the Washington association of sheriffs and police chiefs, a representative from the Washington state association of counties, a representative from the association of Washington cities, a representative from contract work release facilities in the state, a representative from state-run work release facilities in the state, a representative from a nonprofit organization that works with former offenders who have completed a work release program, a crime victims' advocate, and a representative from the department of community, trade, and economic development. The secretary may designate a person to serve in his or her place. Members of the work group shall serve without compensation.

(4) In conducting its review, the work group must review and make recommendations for changes to corrections law and policies to ensure that:

(a) Work release facilities are transformed into residential reentry centers so that participants are provided with a combination of reentry services that conform to evidence-based, research-based, or promising practices as identified by the institute;

(b) Residential reentry centers lead to meaningful employment for offenders participating in the program;

(c) A plan is identified to ensure that residential reentry centers are distributed throughout the state;

(d) Residential reentry centers are of a size consistent with evidence-based, research-based, or promising practices and appropriate to the community in which they are located;

(e) Communities are given meaningful avenues for ongoing consultation regarding the establishment and operation of residential reentry centers in their area;

(f) Victim and community safety concerns are given priority when determining appropriate placement in residential reentry centers for individual offenders;

(g) Eligibility time to participate in residential reentry centers is sufficient to make it a meaningful experience for offenders; and

(h) Programs have the necessary performance measures needed to effectively monitor the quality, effectiveness, and efficiency of the programs.

(5) To the extent practicable, the institute shall cooperate with the work group.

(6)(a) The institute shall report its results and recommendations to the governor and the legislature no later than November 15, 2007.

(b) The department of corrections shall report the results and recommendations of the work group to the governor and the legislature no later than November 15, 2008.

NEW SECTION. **Sec. 302.** A new section is added to chapter 72.09 RCW to read as follows:

(1) The department shall continue to establish community justice centers throughout the state for the purpose of providing comprehensive services and monitoring for offenders who are reentering the community.

(2) For the purposes of this chapter, "community justice center" is defined as a nonresidential facility staffed primarily by the department in which recently released offenders may access services necessary to improve their successful reentry into the community. Such services may include but are not limited to, those listed in the individual reentry plan, mental health, chemical dependency, sex offender treatment, anger management, parenting education, financial literacy, housing assistance, and employment assistance.

(3) At a minimum, the community justice center shall include:

(a) A violator program to allow the department to utilize a range of available sanctions for offenders who violate conditions of their supervision;

(b) An employment opportunity program to assist an offender in finding employment; and

(c) Resources for connecting offenders with services such as treatment, transportation, training, family reunification, and community services.

(4) In addition to any other programs or services offered by a community justice center, the department shall designate a transition coordinator to facilitate connections between the former offender and the community. The department may designate transition coordination services to be provided by a community transition coordination network pursuant to section 103 of this act if one has been established in the community where the community justice center is located and the department has entered into a memorandum of understanding with the county to share resources.

(5) The transition coordinator shall provide information to former offenders regarding services available to them in the community regardless of the length of time since the offender's release from the correctional facility. The transition coordinator shall, at a minimum, be responsible for the following:

(a) Gathering and maintaining information regarding services currently existing within the community that are available to offenders including, but not limited to:

(i) Programs offered through the department of social and health services, the department of health, the department of licensing, housing authorities, local community and technical colleges, other state or federal entities which provide public benefits, and nonprofit entities;

(ii) Services such as housing assistance, employment assistance, education, vocational training, parent education, financial literacy, treatment for substance abuse, mental health, anger management, and any other service or program that will assist the former offender to successfully transition into the community;

(b) Coordinating access to the existing services with the community providers and provide offenders with information regarding how to access the various type of services and resources that are available in the community.

(6)(a) A minimum of six community justice centers shall be operational by December 1, 2009. The six community justice centers include those in operation on the effective date of this section.

(b) By December 1, 2011, the department shall establish a minimum of three additional community justice centers within the state.

(7) In locating new centers, the department shall:

(a) Give priority to the counties with the largest population of offenders who were under the jurisdiction of the department of corrections and that do not already have a community justice center;

(b) Ensure that at least two centers are operational in eastern Washington; and

(c) Comply with section 303 of this act and all applicable zoning laws and regulations.

(8) Before beginning the siting or opening of the new community justice center, the department shall:

(a) Notify the city, if applicable, and the county within which the community justice center is proposed. Such notice shall occur at least sixty days prior to selecting a specific location to provide the services listed in this section;

(b) Consult with the community providers listed in subsection (5) of this section to determine if they have the capacity to provide services to offenders through the community justice center; and

(c) Give due consideration to all comments received in response to the notice of the start of site selection and consultation with community providers.

(9) The department shall make efforts to enter into memoranda of understanding or agreements with the local community policing and supervision programs as defined in section 101 of this act in which the community justice center is located to address:

(a) Efficiencies that may be gained by sharing space or resources in the provision of reentry services to offenders, including services provided through a community transition coordination network established pursuant to section 103 of this act if a network has been established in the county;

(b) Mechanisms for communication of information about offenders, including the feasibility of shared access to databases;

(c) Partnerships to establish neighborhood corrections initiatives between the department of corrections and local police to supervise offenders.

(i) A neighborhood corrections initiative includes shared mechanisms to facilitate supervision of offenders which may include activities such as joint emphasis patrols to monitor high-risk offenders, service of bench and secretary warrants and detainers, joint field visits, connecting offenders with services, and, where appropriate, directing offenders into sanction alternatives in lieu of incarceration.

(ii) The agreement must address:

(A) The roles and responsibilities of police officers and corrections staff participating in the partnership; and

(B) The amount of corrections staff and police officer time that will be dedicated to partnership efforts.

NEW SECTION. **Sec. 303.** A new section is added to chapter 72.09 RCW to read as follows:

(1) No later than July 1, 2007, and every biennium thereafter starting with the biennium beginning July 1, 2009, the department shall prepare a list of counties and rural multicounty geographic areas in which work release facilities, community justice centers and other community-based correctional facilities are anticipated to be sited during the next three fiscal years and transmit the list to the office of financial management and the counties on the list. The list may be updated as needed.

(2) In preparing the list, the department shall make substantial efforts to provide for the equitable distribution of work release, community justice centers, or other community-based correctional facilities among counties. The department shall give great weight to the following factors in determining equitable distribution:

(a) The locations of existing residential facilities owned or operated by, or operated under contract with, the department in each county;

(b) The number and proportion of adult offenders sentenced to the custody or supervision of the department by the courts of the county or rural multicounty geographic area; and

(c) The number of adult registered sex offenders classified as level II or III and adult sex offenders registered per thousand persons residing in the county.

(3) For purposes of this section, "equitable distribution" means siting or locating work release, community justice centers, or other community-based correctional facilities in a manner that reasonably reflects the proportion of offenders sentenced to the custody or supervision of the department by the courts of each county or rural multicounty geographic area designated by the department, and, to the extent practicable, the proportion of offenders residing in particular jurisdictions or communities within such counties or rural multicounty geographic areas. Equitable distribution is a policy goal, not a basis for any legal challenge to the siting, construction, occupancy, or operation of any facility anywhere in the state.

Sec. 304. RCW 9.94A.728 and 2004 c 176 s 6 are each amended to read as follows:

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(a) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence. In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(b)(i) In the case of an offender who qualifies under (b)(ii) of this subsection, the aggregate earned release time may not exceed fifty percent of the sentence.

(ii) An offender is qualified to earn up to fifty percent of aggregate earned release time under this subsection (1)(b) if he or she:

(A) Is classified in one of the two lowest risk categories under (b)(iii) of this subsection;

(B) Is not confined pursuant to a sentence for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor); ((~~and~~))

(C) Has no prior conviction for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9.94A.411;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(D) Participates in programming or activities as directed by the offender's individual reentry plan as provided under section 203 of this act to the extent that such programming or activities are made available by the department; and

(E) Has not committed a new felony after the effective date of this section while under community supervision, community placement, or community custody.

(iii) For purposes of determining an offender's eligibility under this subsection (1)(b), the department shall perform a risk assessment of every offender committed to a correctional facility operated by the department who has no current or prior conviction for a sex offense, a violent offense, a crime against persons as defined in RCW 9.94A.411, a felony that is domestic violence as defined in RCW 10.99.020, a violation of RCW 9A.52.025 (residential burglary), a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine, or a violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor). The department must classify each assessed offender in one of four risk categories between highest and lowest risk.

(iv) The department shall recalculate the earned release time and reschedule the expected release dates for each qualified offender under this subsection (1)(b).

(v) This subsection (1)(b) applies retroactively to eligible offenders serving terms of total confinement in a state correctional facility as of July 1, 2003.

(vi) This subsection (1)(b) does not apply to offenders convicted after July 1, 2010.

(c) In no other case shall the aggregate earned release time exceed one-third of the total sentence;

(2)(a) A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, vehicular homicide, vehicular assault, assault of a child in the second degree, any crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;

(b) A person convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;

(c) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community placement or community custody terms eligible for release to community custody status in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(d) The department may deny transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody or community placement;

(e) If the department denies transfer to community custody status in lieu of earned early release pursuant to (d) of this subsection, the department may transfer an offender to partial confinement in lieu of earned early release up to three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in this section;

(f) An offender serving a term of confinement imposed under RCW 9.94A.670(4)(a) is not eligible for earned release credits under this section;

(3) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(4)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(i) The offender has a medical condition that is serious enough to require costly care or treatment;

(ii) The offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and

(iii) Granting the extraordinary medical placement will result in a cost savings to the state.

(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(d) The secretary may revoke an extraordinary medical placement under this subsection at any time;

(5) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(6) No more than the final six months of the ((~~sentence~~)) offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to subsection (2)(e) of this section;

(7) The governor may pardon any offender;

(8) The department may release an offender from confinement any time within ten days before a release date calculated under this section; and

(9) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870.

Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540, however persistent offenders are not eligible for extraordinary medical placement.

Sec. 305. RCW 9.94A.737 and 2005 c 435 s 3 are each amended to read as follows:

(1) If an offender violates any condition or requirement of community custody, the department may transfer the offender to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation and subject to the limitations of subsection ((~~(2)~~)) (3) of this section.

(2) If an offender has not completed his or her maximum term of total confinement and is subject to a third violation hearing for any violation of community custody and is found to have committed the violation, the department shall return the offender to total confinement in a state correctional facility to serve up to the remaining portion of his or her sentence, unless it is determined that returning the offender to a state correctional facility would substantially interfere with the offender's ability to maintain necessary community supports or to participate in necessary treatment or programming and would substantially increase the offender's likelihood of reoffending.

(3)(a) For a sex offender sentenced to a term of community custody under RCW 9.94A.670 who violates any condition of community custody, the department may impose a sanction of up to sixty days' confinement in a local correctional facility for each violation. If the department imposes a sanction, the department shall submit within seventy-two hours a report to the court and the prosecuting attorney outlining the violation or violations and the sanctions imposed.

(b) For a sex offender sentenced to a term of community custody under RCW 9.94A.710 who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in a local correctional facility for each violation.

(c) For an offender sentenced to a term of community custody under RCW 9.94A.505(2)(b), 9.94A.650, or 9.94A.715, or under RCW 9.94A.545, for a crime committed on or after July 1, 2000, who violates any condition of community custody after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in total confinement for each violation. The department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

(d) For an offender sentenced to a term of community placement under RCW 9.94A.705 who violates any condition of community placement after having completed his or her maximum term of total confinement, including time served on community custody in lieu of earned release, the department may impose a sanction of up to sixty days in total confinement for each violation. The department may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community.

((~~(3)~~)) (4) If an offender has been arrested for a new felony offense while under community supervision, community custody, or community placement, the department shall hold the offender in total confinement until a hearing before the department as provided in this section or until the offender has been formally charged for the new felony offense, whichever is earlier. Nothing in this subsection shall be construed as to permit the department to hold an offender past his or her maximum term of total confinement if the offender has not completed the maximum term of total confinement or to permit the department to hold an offender past the offender's term of community supervision, community custody, or community placement.

(5) The department shall be financially responsible for any portion of the sanctions authorized by this section that are served in a local correctional facility as the result of action by the department.

(6) If an offender is accused of violating any condition or requirement of community custody, he or she is entitled to a hearing before the department prior to the imposition of sanctions. The hearing shall be considered as offender disciplinary proceedings and shall not be subject to chapter 34.05 RCW. The department shall develop hearing procedures and a structure of graduated sanctions.

((~~(4)~~)) (7) The hearing procedures required under subsection ((~~(3)~~)) (6) of this section shall be developed by rule and include the following:

(a) Hearing officers shall report through a chain of command separate from that of community corrections officers;

(b) The department shall provide the offender with written notice of the violation, the evidence relied upon, and the reasons the particular sanction was imposed. The notice shall include a statement of the rights specified in this subsection, and the offender's right to file a personal restraint petition under court rules after the final decision of the department;

(c) The hearing shall be held unless waived by the offender, and shall be electronically recorded. For offenders not in total confinement, the hearing shall be held within fifteen working days, but not less than twenty-four hours, after notice of the violation. For offenders in total confinement, the hearing shall be held within five working days, but not less than twenty-four hours, after notice of the violation;

(d) The offender shall have the right to: (i) Be present at the hearing; (ii) have the assistance of a person qualified to assist the offender in the hearing, appointed by the hearing officer if the offender has a language or communications barrier; (iii) testify or remain silent; (iv) call witnesses and present documentary evidence; and (v) question witnesses who appear and testify; and

(e) The sanction shall take effect if affirmed by the hearing officer. Within seven days after the hearing officer's decision, the offender may appeal the decision to a panel of three reviewing officers designated by the secretary or by the secretary's designee. The sanction shall be reversed or modified if a majority of the panel finds that the sanction was not reasonably related to any of the following: (i) The crime of conviction; (ii) the violation committed; (iii) the offender's risk of reoffending; or (iv) the safety of the community.

((~~(5)~~)) (8) For purposes of this section, no finding of a violation of conditions may be based on unconfirmed or unconfirmable allegations.

((~~(6)~~)) (9) The department shall work with the Washington association of sheriffs and police chiefs to establish and operate an electronic monitoring program for low-risk offenders who violate the terms of their community custody. Between January 1, 2006, and December 31, 2006, the department shall endeavor to place at least one hundred low-risk community custody violators on the electronic monitoring program per day if there are at least that many low-risk offenders who qualify for the electronic monitoring program.

((~~(7)~~)) (10) Local governments, their subdivisions and employees, the department and its employees, and the Washington association of sheriffs and police chiefs and its employees shall be immune from civil liability for damages arising from incidents involving low-risk offenders who are placed on electronic monitoring unless it is shown that an employee acted with gross negligence or bad faith.

NEW SECTION. **Sec. 306.** (1) A legislative task force on laws related to community custody and community supervision is established.

(2) The task force shall be composed of fifteen members appointed in the following manner:

(a) The president of the senate shall appoint one member from each of the two largest caucuses of the senate;

(b) The speaker of the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives;

(c) The governor shall appoint the chair of the task force and the following members:

(i) A superior court judge;

(ii) A representative of a prosecutor's association;

(iii) A defense attorney or representative of an organization of defense attorneys;

(iv) A representative of local elected officials;

(v) A sheriff or representative of an organization of sheriffs;

(vi) A police chief or representative of an organization of police chiefs;

(vii) A community corrections officer;

(viii) A crime victim or advocate;

(d) The following agencies shall also be represented on the task force:

(i) The attorney general, or the attorney general's designee; and

(ii) The secretary of the department of corrections, or the secretary's designee.

(3) The task force shall:

(a) Convene at the call of the chair by August 1, 2007;

(b) Review and analyze all statutes of the Revised Code of Washington related to community custody and community supervision of offenders;

(c) Make specific recommendations, if any, related to sentencing laws that would allow the department of corrections and its community corrections officers to more easily identify statutory requirements associated with an offender's sentence;

(d) Make specific recommendations, if any, related to community custody and community supervision laws that would allow the department of corrections and its community corrections officers to more easily identify statutory requirements associated with an offender's term of community custody or supervision;

(e) Make specific recommendations, if any, related to the statutory requirements of the violation hearing process that would enable the department of corrections and its community corrections officers to respond to an offender's behavior by imposing appropriate and timely sanctions when necessary;

(f) Make specific recommendations related to definitions and language used in the statutes, which would make the statutes easily readable and unambiguous;

(g) Receive input from the public and interested stakeholders to assist in making suggested changes; and

(h) Report its findings to the governor and legislature in the form of a final report to be submitted by November 1, 2007.

(i) The report shall propose specific amendatory language wherever possible, when making recommendations;

(ii) Each recommendation in the report shall, whenever possible, site to specific evidence-based programs or promising programs which support the recommended change;

(iii) Each recommendation in the report shall, whenever possible, site to a specific study from the Washington institute for public policy, national institute for justice, bureau of justice assistance, or other academic study supporting the suggested change;

(iv) The report shall contain a summary of public comment.

(4) The task force shall use legislative facilities, and staff support shall be provided by the office of financial management, senate committee services, and house of representatives office of program research.

(5) The Washington institute for public policy, the department of corrections, and the sentencing guidelines commission shall cooperate with the task force and provide all information and support reasonably requested by the task force.

(6) Nonlegislative members of the task force shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(7) Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(8) This section expires December 31, 2007.

NEW SECTION. **Sec. 307.** The department of corrections shall conduct an updated community corrections workload study and report the results of that study to the governor and the legislature on or before November 1, 2007.

PART IV - EDUCATION

NEW SECTION. **Sec. 401.** Research and practice show that long-term success in helping offenders prepare for economic self-sufficiency requires strategies that address their education and employment needs. Recent research suggests that a solid academic foundation and employment- and career-focused programs can be cost-effective in reducing the likelihood of reoffense. To this end, the legislature intends that the state strive to provide every inmate with basic academic skills as well as educational and vocational training designed to meet the assessed needs of the offender.

Nonetheless, it is vital that offenders engaged in educational or vocational training contribute to their own success. An offender should financially contribute to his or her education, particularly postsecondary educational pursuits. The legislature intends to provide more flexibility for offenders in obtaining postsecondary education by allowing third parties to make contributions to the offender's education without mandatory deductions and by creating a loan program. In developing the loan program, the department is encouraged to adopt rules and standards similar to those that apply to students in noninstitutional settings for issues such as applying for a loan, maintaining accountability, and accruing interest on the loan obligation.

Sec. 402. RCW 72.09.460 and 2004 c 167 s 5 are each amended to read as follows:

(1) The legislature intends that all inmates be required to participate in department-approved education programs, work programs, or both, unless exempted ((~~under subsection (4) of~~)) as specifically provided in this section. Eligible inmates who refuse to participate in available education or work programs available at no charge to the inmates shall lose privileges according to the system established under RCW 72.09.130. Eligible inmates who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges.

(2) The legislature recognizes more inmates may agree to participate in education and work programs than are available. The department must make every effort to achieve maximum public benefit by placing inmates in available and appropriate education and work programs.

((~~(2) The department shall provide access to a program of education to all offenders who are under the age of eighteen and who have not met high school graduation or general equivalency diploma requirements in accordance with chapter 28A.193 RCW. The program of education established by the department and education provider under RCW 28A.193.020 for offenders under the age of eighteen must provide each offender a choice of curriculum that will assist the inmate in achieving a high school diploma or general equivalency diploma. The program of education may include but not be limited to basic education, prevocational training, work ethic skills, conflict resolution counseling, substance abuse intervention, and anger management counseling. The curriculum may balance these and other rehabilitation, work, and training components.~~))

(3)(a) The department shall, to the extent possible and considering all available funds, prioritize its resources to meet the following goals for inmates in the order listed:

(((~~(a)~~))) (i) Achievement of basic academic skills through obtaining a high school diploma or its equivalent ((~~and~~));

(ii) Achievement of vocational skills necessary for purposes of work programs and for an inmate to qualify for work upon release;

(((~~(b) Additional work and education programs based on assessments and placements under subsection (5) of this section; and~~

~~(c) Other work and education programs as appropriate.~~

~~(4) The department shall establish, by rule, objective medical standards to determine when an inmate is physically or mentally unable to participate in available education or work programs. When the department determines an inmate is permanently unable to participate in any available education or work program due to a medical condition, the inmate is exempt from the requirement under subsection (1) of this section. When the department determines an inmate is temporarily unable to participate in an education or work program due to a medical condition, the inmate is exempt from the requirement of subsection (1) of this section for the period of time he or she is temporarily disabled. The department shall periodically review the medical condition of all temporarily disabled inmates to ensure the earliest possible entry or reentry by inmates into available programming.~~

~~(5) The department shall establish, by rule, standards for participation in department-approved education and work programs. The standards shall address the following areas:~~

~~(a) Assessment. The department shall assess all inmates for their basic academic skill levels using a professionally accepted method of scoring reading, math, and language skills as grade level equivalents. The department shall determine an inmate's education history, work history, and vocational or work skills. The initial assessment shall be conducted, whenever possible, within the first thirty days of an inmate's entry into the correctional system, except that initial assessments are not required for inmates who are sentenced to life without the possibility of release, assigned to an intensive management unit within the first thirty days after entry into the correctional system, are returning to the correctional system within one year of a prior release, or whose physical or mental condition renders them unable to complete the assessment process. The department shall track and record changes in the basic academic skill levels of all inmates reflected in any testing or assessment performed as part of their education programming;~~

~~(b) Placement. The department shall follow the policies set forth in subsection (1) of this section in establishing criteria for placing inmates in education and work programs. The department shall, to the extent possible, place all inmates whose composite grade level score for basic academic skills is below the eighth grade level in a combined education and work program. The placement criteria shall include at least the following factors~~)) (iii) Additional work and education programs necessary for compliance with an offender's individual reentry plan under section 203 of this act with the exception of postsecondary education degree programs as provided in section 403 of this act; and

(iv) Other appropriate vocational, work, or education programs that are not necessary for compliance with an offender's individual reentry plan under section 203 of this act with the exception of postsecondary education degree programs as provided in section 403 of this act.

(b) If programming is provided pursuant to (a)(i) through (iii) of this subsection, the department shall pay the cost of such programming, including but not limited to books, materials, supplies, and postage costs related to correspondence courses.

(c) If programming is provided pursuant to (a)(iv) of this subsection, inmates shall be required to pay all or a portion of the costs, including books, fees, and tuition, for participation in any vocational, work, or education program as provided in department policies. Department policies shall include a formula for determining how much an offender shall be required to pay. The formula shall include steps which correlate to an offender average monthly income or average available balance in a personal inmate savings account and which are correlated to a prorated portion or percent of the per credit fee for tuition, books, or other ancillary costs. The formula shall be reviewed every two years. A third party may pay directly to the department all or a portion of costs and tuition for any programming provided pursuant to (a)(iv) of this subsection on behalf of an inmate. Such payments shall not be subject to any of the deductions as provided in this chapter.

(d) The department may accept any and all donations and grants of money, equipment, supplies, materials, and services from any third party, including but not limited to nonprofit entities, and may receive, utilize, and dispose of same to complete the purposes of this section.

(e) Any funds collected by the department under (c) and (d) of this subsection and subsections (8) and (9) of this section shall be used solely for the creation, maintenance, or expansion of inmate educational and vocational programs.

(4) The department shall provide access to a program of education to all offenders who are under the age of eighteen and who have not met high school graduation or general equivalency diploma requirements in accordance with chapter 28A.193 RCW. The program of education established by the department and education provider under RCW 28A.193.020 for offenders under the age of eighteen must provide each offender a choice of curriculum that will assist the inmate in achieving a high school diploma or general equivalency diploma. The program of education may include but not be limited to basic education, prevocational training, work ethic skills, conflict resolution counseling, substance abuse intervention, and anger management counseling. The curriculum may balance these and other rehabilitation, work, and training components.

(5)(a) In addition to the policies set forth in this section, the department shall consider the following factors in establishing criteria for assessing the inclusion of education and work programs in an inmate's individual reentry plan and in placing inmates in education and work programs:

(i) An inmate's release date and custody level. An inmate shall not be precluded from participating in an education or work program solely on the basis of his or her release date, except that inmates with a release date of more than one hundred twenty months in the future shall not comprise more than ten percent of inmates participating in a new class I correctional industry not in existence on June 10, 2004;

(ii) An inmate's education history and basic academic skills;

(iii) An inmate's work history and vocational or work skills;

(iv) An inmate's economic circumstances, including but not limited to an inmate's family support obligations; and

(v) Where applicable, an inmate's prior performance in department-approved education or work programs;

(((~~(c) Performance and goals.~~)) (b) The department shall establish, and periodically review, inmate behavior standards and program goals for all education and work programs. Inmates shall be notified of applicable behavior standards and program goals prior to placement in an education or work program and shall be removed from the education or work program if they consistently fail to meet the standards or goals((~~:~~

~~(d) Financial responsibility. (i) The department shall establish a formula by which inmates, based on their ability to pay, shall pay all or a portion of the costs or tuition of certain programs. Inmates shall, based on the formula, pay a portion of the costs or tuition of participation in:~~

~~(A) Second and subsequent vocational programs associated with an inmate's work programs; and~~

~~(B) An associate of arts or baccalaureate degree program when placement in a degree program is the result of a placement made under this subsection;~~

~~(ii) Inmates shall pay all costs and tuition for participation in:~~

~~(A) Any postsecondary academic degree program which is entered independently of a placement decision made under this subsection; and~~

~~(B) Second and subsequent vocational programs not associated with an inmate's work program.~~

~~Enrollment in any program specified in (d)(ii) of this subsection shall only be allowed by correspondence or if there is an opening in an education or work program at the institution where an inmate is incarcerated and no other inmate who is placed in a program under this subsection will be displaced; and~~

~~(e) Notwithstanding any other provision in this section, an inmate sentenced to life without the possibility of release:~~

~~(i) Shall not be required to participate in education programming; and~~

~~(ii) May receive not more than one postsecondary academic degree in a program offered by the department or its contracted providers.~~

~~If an inmate sentenced to life without the possibility of release requires prevocational or vocational training for a work program, he or she may participate in the training subject to this section.~~

~~(6) The department shall coordinate education and work programs among its institutions, to the greatest extent possible, to facilitate continuity of programming among inmates transferred between institutions. Before transferring an inmate enrolled in a program, the department shall consider the effect the transfer will have on the inmate's ability to continue or complete a program. This subsection shall not be used to delay or prohibit a transfer necessary for legitimate safety or security concerns.~~

~~(7) Before construction of a new correctional institution or expansion of an existing correctional institution, the department shall adopt a plan demonstrating how cable, closed-circuit, and satellite television will be used for education and training purposes in the institution. The plan shall specify how the use of television in the education and training programs will improve inmates' preparedness for available work programs and job opportunities for which inmates may qualify upon release.~~

~~(8) The department shall adopt a plan to reduce the per-pupil cost of instruction by, among other methods, increasing the use of volunteer instructors and implementing technological efficiencies. The plan shall be adopted by December 1996 and shall be transmitted to the legislature upon adoption. The department shall, in adoption of the plan, consider distance learning, satellite instruction, video tape usage, computer-aided instruction, and flexible scheduling of offender instruction.~~

~~(9) Following completion of the review required by section 27(3), chapter 19, Laws of 1995 1st sp. sess. the department shall take all necessary steps to assure the vocation and education programs are relevant to work programs and skills necessary to enhance the employability of inmates upon release~~)).

(6) Eligible inmates who refuse to participate in available education or work programs available at no charge to the inmates shall lose privileges according to the system established under RCW 72.09.130. Eligible inmates who are required to contribute financially to an education or work program and refuse to contribute shall be placed in another work program. Refusal to contribute shall not result in a loss of privileges.

(7) The department shall establish, by rule, objective medical standards to determine when an inmate is physically or mentally unable to participate in available education or work programs. When the department determines an inmate is permanently unable to participate in any available education or work program due to a health condition, the inmate is exempt from the requirement under subsection (1) of this section. When the department determines an inmate is temporarily unable to participate in an education or work program due to a medical condition, the inmate is exempt from the requirement of subsection (1) of this section for the period of time he or she is temporarily disabled. The department shall periodically review the medical condition of all inmates with temporary disabilities to ensure the earliest possible entry or reentry by inmates into available programming.

(8) The department shall establish policies requiring an offender to pay all or a portion of the costs and tuition for any vocational training or postsecondary education program if the offender previously abandoned coursework related to education or vocational training without excuse as defined in rule by the department. Department policies shall include a formula for determining how much an offender shall be required to pay. The formula shall include steps which correlate to an offender average monthly income or average available balance in a personal inmate savings account and which are correlated to a prorated portion or percent of the per credit fee for tuition, books, or other ancillary costs. The formula shall be reviewed every two years. A third party may pay directly to the department all or a portion of costs and tuition for any program on behalf of an inmate under this subsection. Such payments shall not be subject to any of the deductions as provided in this chapter.

(9) Notwithstanding any other provision in this section, an inmate sentenced to life without the possibility of release, sentenced to death under chapter 10.95 RCW, or subject to the provisions of 8 U.S.C. Sec. 1227:

(a) Shall not be required to participate in education programming except as may be necessary for the maintenance of discipline and security;

(b) May receive not more than one postsecondary academic degree in a program offered by the department or its contracted providers;

(c) May participate in prevocational or vocational training that may be necessary to participate in a work program;

(d) Shall be subject to the applicable provisions of this chapter relating to inmate financial responsibility for programming except the postsecondary education degree loan program as provided in section 403(3) of this act.

NEW SECTION. **Sec. 403.** A new section is added to chapter 72.09 RCW to read as follows:

(1) The department shall, if funds are appropriated for the specific purpose, implement postsecondary education degree programs within state correctional institutions, including the state correctional institution with the largest population of female inmates. The department shall consider for inclusion in any postsecondary education degree program, any postsecondary education degree program from an accredited community college, college, or university that is part of an associate of arts, baccalaureate, masters of arts, or other graduate degree program.

(2) Except as provided in subsection (4) of this section, inmates shall be required to pay the costs for participation in any postsecondary education degree programs established under this subsection, including books, fees, tuition, or any other appropriate ancillary costs, by one or more of the following means:

(a) The inmate who is participating in the postsecondary education degree program shall, during confinement, provide the required payment or payments to the department;

(b) A third party shall provide the required payment or payments directly to the department on behalf of an inmate, and such payments shall not be subject to any of the deductions as provided in this chapter; or

(c) The inmate who is participating in the postsecondary education degree program shall provide the required payment or payments to the department using loan funds obtained from the department's postsecondary education degree loan program created pursuant to subsection (3) of this section.

(3) The department shall, if funds are appropriated for the specific purpose, establish by rule a postsecondary education degree loan program for inmates seeking to participate in available associate or two-year postsecondary education degree

programs to prepare the inmate for employment. The department shall establish a process for awarding loans to inmates, including an application process and criteria for awarding loans. The department shall collect repayment as provided in RCW 72.09.450(4). A third party may pay directly to the department all or a portion of any loan on behalf of an inmate. Such payments shall not be subject to any of the deductions as provided in this chapter. Inmates under RCW 72.09.460(9) are not eligible to participate in the postsecondary education degree loan program.

(4) The department may accept any and all donations and grants of money, equipment, supplies, materials, and services from any third party, including but not limited to nonprofit entities, and may receive, utilize, and dispose of same to provide postsecondary education to inmates.

(5) Any funds collected by the department under this section and RCW 72.09.450(4) shall be used solely for the creation, maintenance, or expansion of inmate postsecondary education degree programs.

Sec. 404. RCW 72.09.480 and 2003 c 271 s 3 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsection (7) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the public safety and education account for the purpose of crime victims' compensation;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent to the department to contribute to the cost of incarceration;

(d) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; and

(e) Fifteen percent for any child support owed under a support order.

(3) When an inmate, except as provided in subsection (7) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(5)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment of ((~~one fee-based~~)) education or vocational programs ((~~that is associated with an inmate's work program or a placement decision made by the department under RCW 72.09.460 to prepare an inmate for work upon release.~~

~~An inmate may, prior to the completion of the fee-based education or vocational program authorized under this subsection, apply to a person designated by the secretary for permission to make a change in his or her program. The secretary, or his or her designee, may approve the application based solely on the following criteria: (a) The inmate has been transferred to another institution by the department for reasons unrelated to education or a change to a higher security classification and the offender's current program is unavailable in the offender's new placement; (b) the inmate entered an academic program as an undeclared major and wishes to declare a major. No inmate may apply for more than one change to his or her major and receive the exemption from deductions specified in this subsection; (c) the educational or vocational institution is terminating the inmate's current program; or (d) the offender's training or education has demonstrated that the current program is not the appropriate program to assist the offender to achieve a placement decision made by the department under RCW 72.09.460 to prepare the inmate for work upon release~~)) or postsecondary education degree programs as provided in RCW 72.09.460 and section 403 of this act.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(6) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(7) When an inmate sentenced to life imprisonment without possibility of release or parole, or to death under chapter 10.95 RCW, receives any funds in addition to his or her gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to: Deductions of five percent to the public safety and education account for the purpose of crime victims' compensation, twenty percent to the department to contribute to the cost of incarceration, and fifteen percent to child support payments.

(8) When an inmate sentenced to life imprisonment without possibility of release or parole, or to death under chapter 10.95 RCW, receives any funds from a settlement or award resulting from a legal action in addition to his or her gratuities, the additional funds shall be subject to: Deductions of five percent to the public safety and education account for the purpose of crime victims' compensation and twenty percent to the department to contribute to the cost of incarceration.

(9) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

(10) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action.

Sec. 405. RCW 72.09.450 and 1996 c 277 s 1 are each amended to read as follows:

(1) An inmate shall not be denied access to services or supplies required by state or federal law solely on the basis of his or her inability to pay for them.

(2) The department shall record all lawfully authorized assessments for services or supplies as a debt to the department.

The department shall recoup the assessments when the inmate's institutional account exceeds the indigency standard, and may pursue other remedies to recoup the assessments after the period of incarceration.

(3) The department shall record as a debt any costs assessed by a court against an inmate plaintiff where the state is providing defense pursuant to chapter 4.92 RCW. The department shall recoup the debt when the inmate's institutional account exceeds the indigency standard and may pursue other remedies to recoup the debt after the period of incarceration.

(4) The department shall record as a debt any loan recorded against an inmate participating in the postsecondary education degree loan program as provided under section 403 of this act. The department shall attempt to recoup the debt not sooner than two years from an inmate's date of release from total or partial confinement. The loan shall accrue interest from the time of collection at a rate set by the department in rule. The department may pursue collection of the debt as provided in subsection (5) of this section.

(5) In order to maximize the cost-efficient collection of unpaid offender debt existing after the period of an offender's incarceration, the department is authorized to use the following nonexclusive options: (a) Use the collection services available through the department of general administration, or (b) notwithstanding any provision of chapter 41.06 RCW, contract with collection agencies for collection of the debts. The costs for general administration or collection agency services shall be paid by the debtor. Any contract with a collection agency shall only be awarded after competitive bidding. Factors the department shall consider in awarding a collection contract include but are not limited to a collection agency's history and reputation in the community; and the agency's access to a local database that may increase the efficiency of its collections. The servicing of an unpaid obligation to the department does not constitute assignment of a debt, and no contract with a collection agency may remove the department's control over unpaid obligations owed to the department.

NEW SECTION. **Sec. 406.** (1) The department of corrections and the state board for community and technical colleges, in cooperation with the unions representing academic employees in corrections education programs, shall investigate and review methods to optimize educational and vocational programming opportunities to meet the needs of each offender as identified in his or her individual reentry plan while an offender is under the jurisdiction of the department.

(2) In conducting its review, the department and state board shall consider and make recommendations regarding:

(a) Technological advances which could serve to expand educational programs and vocational training including, but not limited to, distance learning, satellite instruction, videotape usage, computer aided instruction, and flexible scheduling and also considering the infrastructure, resources, and security that would be needed to implement the program or training. These advances shall be assessed for their ability to provide the most cost-efficient and effective programming for offenders;

(b) Methods to ensure that educational programs and vocational training are relevant to enhance the employability of offenders upon release; and

(c) Long-term methods for maintaining channels of communication between the department, state board administration, academic employees, and students.

(3) The department and state board shall report to the governor and the legislature no later than July 1, 2008.

NEW SECTION. **Sec. 407.** (1) The Washington state institute for public policy shall conduct a comprehensive analysis and evaluation of evidence-based, research-based, and promising correctional education programs and the extent to which Washington's programs are in accord with these practices. In gathering data regarding correctional education programs, the institute may consult with academic employees from correctional education programs.

(2) The institute shall report to the governor and the legislature no later than November 15, 2007.

PART V - EMPLOYMENT BARRIERS

NEW SECTION. **Sec. 501.** On or before October 1, 2007, the department of corrections and the department of licensing shall enter into an agreement establishing expedited procedures to assist offenders in obtaining a driver's license or identification card upon their release from a department of corrections' institution.

NEW SECTION. **Sec. 502.** (1) The director of the department of licensing, or the director's designee, shall, within existing resources, convene and chair a work group to review and recommend changes to occupational licensing laws and policies to encourage the employment of individuals with criminal convictions while ensuring the safety of the public.

(2) In addition to the director of the department of licensing, the following shall be members of the work group: A representative from the employment security department, a representative from the department of corrections, a representative from the Washington state association of prosecuting attorneys, and up to five members appointed by the governor from state agencies that issue occupational licenses. The department shall also invite participation from victim service agencies, the state board for community and technical colleges, association of Washington business, nonprofit organizations providing workforce training to released offenders, and legislative staff who provide support to the human services and human services and corrections committees. Members of the work group shall serve without compensation.

(3) In conducting its review, the work group must:

(a) Review approaches used by other states and jurisdictions for awarding occupational licenses to those with criminal convictions;

(b) Develop a process and standards by which the department of licensing and licensing agencies will determine whether a criminal conviction renders an applicant an unsuitable candidate for a license or whether a conviction warrants revocation or suspension of a license previously granted;

(c) Develop guidelines for potential applicants that reflect the most common or well-known categories of crimes and their relation to specific license types;

(d) Establish mechanisms for making information regarding the process and guidelines easily accessible to potential applicants with criminal histories.

(4) The department of licensing shall present a report of its findings and recommendations to the governor and the appropriate committees of the legislature, including any proposed legislation, by November 15, 2008.

(5) This section expires December 15, 2008.

PART VI - HOUSING

NEW SECTION. **Sec. 601.** The legislature finds that, in order to improve the safety of our communities, more housing needs to be made available to offenders returning to the community. The legislature intends to increase the housing available to offenders by providing that landlords who rent to offenders shall be immune from civil liability for damages that may result from the criminal conduct of the tenant.

NEW SECTION. **Sec. 602.** A new section is added to chapter 59.18 RCW to read as follows:

A landlord who rents to an offender is not liable for civil damages arising from the criminal conduct of the tenant. In order for a landlord to be protected from liability as provided under this section, a landlord must:

(1) Disclose to residents of the property that he or she rents or has a policy of renting to offenders; and

(2) Take steps to report or halt criminal activity if the landlord has actual knowledge of criminal activity on the landlord's premises.

NEW SECTION. **Sec. 603.** A new section is added to chapter 35.82 RCW to read as follows:

The legislature recognizes that stable, habitable, and supportive housing is a critical factor that increases a previously incarcerated individual's access to treatment and services as well as the likelihood of success in the community. Housing authorities are therefore encouraged to formulate rental policies that are not unduly burdensome to previously incarcerated individuals attempting to reenter the community, particularly when the individual's family may already reside in government subsidized housing.

NEW SECTION. **Sec. 604.** A new section is added to chapter 43.185C RCW to read as follows:

(1) The department of community, trade, and economic development shall establish a pilot program to provide grants to eligible organizations, as described in RCW 43.185.060, to provide transitional housing assistance to offenders who are reentering the community and are in need of housing.

(2) There shall be a minimum of two pilot programs established in two counties. The pilot programs shall be selected through a request for proposal process and in consultation with the department of corrections. The department shall select the pilot sites by January 1, 2008.

(3) The pilot program shall:

(a) Be operated in collaboration with the community justice center existing in the location of the pilot site;

(b) Offer transitional supportive housing that includes individual support and mentoring available on an ongoing basis, life skills training, and close working relationships with community justice centers and community corrections officers. Supportive housing services can be provided directly by the housing operator, or in partnership with community-based organizations;

(c) In providing assistance, give priority to offenders who are designated as high risk or high needs as well as those determined not to have a viable release plan by the department of corrections;

(d) Optimize available funding by utilizing cost-effective community-based shared housing arrangements or other noninstitutional living arrangements; and

(e) Provide housing assistance for a period of time not to exceed twelve months for a participating offender.

(4) The department may also use up to twenty percent of the funding appropriated in the operating budget for this section to support the development of additional supportive housing resources for offenders who are reentering the community.

(5) The department shall:

(a) Collaborate with the department of corrections in developing criteria to determine who will qualify for housing assistance; and

(b) Gather data, and report to the legislature by November 1, 2008, on the number of offenders seeking housing, the number of offenders eligible for housing, the number of offenders who receive the housing, and the number of offenders who commit new crimes while residing in the housing to the extent information is available.

(6) The department of corrections shall collaborate with organizations receiving grant funds to:

(a) Help identify appropriate housing solutions in the community for offenders;

(b) Where possible, facilitate an offender's application for housing prior to discharge;

(c) Identify enhancements to training provided to offenders prior to discharge that may assist an offender in effectively transitioning to the community;

(d) Maintain communication between the organization receiving grant funds, the housing provider, and corrections staff supervising the offender; and

(e) Assist the offender in accessing resources and services available through the department of corrections and a community justice center.

(7) The state, department of community, trade, and economic development, department of corrections, local governments, local housing authorities, eligible organizations as described in RCW 43.185.060, and their employees are not liable for civil damages arising from the criminal conduct of an offender solely due to the placement of an offender in housing provided under this section or the provision of housing assistance.

(8) Nothing in this section allows placement of an offender into housing without an analysis of the risk the offender may pose to that particular community or other residents.

Sec. 605. RCW 72.09.111 and 2004 c 167 s 7 are each amended to read as follows:

(1) The secretary shall deduct taxes and legal financial obligations from the gross wages, gratuities, or workers' compensation benefits payable directly to the inmate under chapter 51.32 RCW, of each inmate working in correctional industries work programs, or otherwise receiving such wages, gratuities, or benefits. The secretary shall also deduct child support payments from the gratuities of each inmate working in class II through class IV correctional industries work programs. The secretary shall develop a formula for the distribution of offender wages, gratuities, and benefits. The formula shall not reduce the inmate account below the indigency level, as defined in RCW 72.09.015.

(a) The formula shall include the following minimum deductions from class I gross wages and from all others earning at least minimum wage:

(i) Five percent to the public safety and education account for the purpose of crime victims' compensation;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court.

(b) The formula shall include the following minimum deductions from class II gross gratuities:

(i) Five percent to the public safety and education account for the purpose of crime victims' compensation;

(ii) Ten percent to a department personal inmate savings account;

(iii) Fifteen percent to the department to contribute to the cost of incarceration;

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; and

(v) Fifteen percent for any child support owed under a support order.

(c) The formula shall include the following minimum deductions from any workers' compensation benefits paid pursuant to RCW 51.32.080:

(i) Five percent to the public safety and education account for the purpose of crime victims' compensation;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) An amount equal to any legal financial obligations owed by the inmate established by an order of any Washington state superior court up to the total amount of the award.

(d) The formula shall include the following minimum deductions from class III gratuities:

(i) Five percent for the purpose of crime victims' compensation; and

(ii) Fifteen percent for any child support owed under a support order.

(e) The formula shall include the following minimum deduction from class IV gross gratuities:

(i) Five percent to the department to contribute to the cost of incarceration; and

(ii) Fifteen percent for any child support owed under a support order.

(2) Any person sentenced to life imprisonment without possibility of release or parole under chapter 10.95 RCW or sentenced to death shall be exempt from the requirement under subsection (1)(a)(ii), (b)(ii), or (c)(ii).

(3)(a) The department personal inmate savings account, together with any accrued interest, shall only be available to an inmate at the following times:

(i) The time of his or her release from confinement((~~, unless~~));

(ii) Prior to his or her release from confinement in order to secure approved housing; or

(iii) When the secretary determines that an emergency exists for the inmate((~~, at which time the funds can be~~)).

(b) If funds are made available pursuant to (a)(ii) or (iii) of this subsection, the funds shall be made available to the inmate in an amount determined by the secretary.

(c) The management of classes I, II, and IV correctional industries may establish an incentive payment for offender workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

(4)(a) Subject to availability of funds for the correctional industries program, the expansion of inmate employment in class I and class II correctional industries shall be implemented according to the following schedule:

(i) Not later than June 30, 2005, the secretary shall achieve a net increase of at least two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(ii) Not later than June 30, 2006, the secretary shall achieve a net increase of at least four hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iii) Not later than June 30, 2007, the secretary shall achieve a net increase of at least six hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iv) Not later than June 30, 2008, the secretary shall achieve a net increase of at least nine hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(v) Not later than June 30, 2009, the secretary shall achieve a net increase of at least one thousand two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(vi) Not later than June 30, 2010, the secretary shall achieve a net increase of at least one thousand five hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003.

(b) Failure to comply with the schedule in this subsection does not create a private right of action.

(5) In the event that the offender worker's wages, gratuity, or workers' compensation benefit is subject to garnishment for support enforcement, the crime victims' compensation, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

(6) The department shall explore other methods of recovering a portion of the cost of the inmate's incarceration and for encouraging participation in work programs, including development of incentive programs that offer inmates benefits and amenities paid for only from wages earned while working in a correctional industries work program.

(7) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration shall be deposited in a dedicated fund with the department and shall be used only for the purpose of enhancing and maintaining correctional industries work programs.

(8) It shall be in the discretion of the secretary to apportion the inmates between class I and class II depending on available contracts and resources.

(9) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

PART VII - MISCELLANEOUS

NEW SECTION. **Sec. 701.** Part headings used in this act are not any part of the law.

NEW SECTION. **Sec. 702.** 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."

MOTION

Senator Hargrove moved that the following amendment by Senators Hargrove and others to the striking amendment be adopted.

On page 54, after line 7, insert the following:

NEW SECTION. Sec. 703. (1) The sum of three hundred thousand dollars of the general fund--state appropriation for fiscal year 2008 and three hundred thousand dollars of the general fund--state appropriation for fiscal year 2009 are provided solely to the department of corrections for the purposes of section 305(2) and (4) of this act.

(2) The sum of nine hundred thousand dollars of the general fund--state appropriation for fiscal year 2008 and nine hundred thousand dollars of the general fund--state appropriation for fiscal year 2009 are provided solely to the department of corrections for the purposes of section 304(1)(b)(ii)(D) and (E) of this act.

(3) The sum of one hundred thousand dollars of the general fund--state appropriation for fiscal year 2008 and one hundred thousand dollars of the general fund--state appropriation for fiscal year 2009 are provided solely for the department of corrections for the purposes of section 307 of this act.

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

The President declared the question before the Senate to be the adoption of the amendment by Senator Hargrove and others on page 54, after line 7 to the striking amendment to Substitute Senate Bill No. 6157.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Hargrove and others as amended to Substitute Senate Bill No. 6157.

Senator Hargrove spoke in favor of the striking amendment as amended.

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

MOTION

There being no objections, the following title amendments were adopted.

On page 1, line 1 of the title, after "Relating to" strike the remainder of the title and insert "reducing offender recidivism by increasing access and coordination of offender services in communities through inventories of services and community transition coordination network pilot programs; by improving local law and justice councils to focus their efforts on effective use of correctional resources and coordination between state and local law enforcement and corrections agencies; by developing and implementing individual reentry plans that describe actions and services to prepare offenders for release from jail or prison and require an offender to participate in available programming directed in their plan in order to qualify for fifty percent earned early release; by excluding the use of an individual reentry plan as the basis in civil actions against local governments; by requiring an offender released to community supervision to be returned to the county of origin unless it is inappropriate due to matters of victim safety, lack of family or other supports for the offender in other locations, or negative influences on the offender in that community; by requiring the department of corrections to prepare a list of counties and rural multicounty areas for anticipated siting of work release, community justice centers and other community-based correctional facilities while making substantial efforts to provide for the equitable distribution of the facilities; by studying and identifying evidence-based practices for work release; by increasing the use of effective practices in residential and nonresidential transition facilities for offenders under the jurisdiction of the department of corrections; by permitting partial confinement in lieu of earned early release up to three months; by requiring, upon a finding at a third violation hearing that the offender committed a violation, the return of an offender to total confinement to serve up to the remaining portion of his or her sentence unless it is determined that returning the offender would interfere with the offender's ability to maintain community supports or participate in treatment and would increase the likelihood of reoffending; by requiring an offender arrested for a new felony while under community custody, community placement, or community supervision to be held in confinement until a hearing before the department or until a formal charge is filed, whichever is earlier; by prohibiting an offender under community custody, community placement, or community supervision who is found guilty of a new felony after the effective date of this act from qualifying for fifty percent earned early release; by creating a task force to study and review the current laws and policy regarding community custody and community supervision; by conducting a community corrections workload study; by improving educational opportunities; by providing liability protection for landlords who rent to former offenders and entities participating in the transitional housing program under certain conditions; by encouraging housing authorities to formulate rental policies not overly burdensome to previously incarcerated individuals; by establishing a transitional housing program for offenders in need of stable housing; by allowing funds to be disbursed from a personal inmate savings account in order to assist an offender to secure appropriate housing; by establishing expedited procedures for released offenders to obtain a driver's license or identification card; and by reviewing and recommending changes to occupational licensing laws; amending RCW 72.09.300, 72.09.015, 9.94A.728, 9.94A.737, 72.09.460, 72.09.480, 72.09.450, and 72.09.111; adding new sections to chapter 72.09 RCW; adding a new section to chapter 59.18 RCW; adding a new section to chapter 35.82 RCW; adding a new section to chapter 43.185C RCW; adding a new chapter to Title 72 RCW; creating new sections; and providing expiration dates."

On page 55, line 33 of the title, after "licensing laws;", insert "by adding appropriations for sections 305(2) and (4), section 304(1)(b)(ii)(D) and (E), and section 307 of this act;"

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute Senate Bill No. 6157 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hargrove, Carrell, Brown spoke in favor of passage of the bill.

MOTION

On motion of Senator Delvin, Senator Brandland was excused.

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

Senator Sheldon spoke on final passage.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6157.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6157 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 0; Excused, 2.

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

Voting nay: Senators Clements, Holmquist, Honeyford and Sheldon - 4

Excused: Senators Brandland and Kohl-Welles - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 6157, 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.

PERSONAL PRIVILEGE

Senator Prentice: “Thank you Mr. President. A couple of days ago the US Supreme Court struck a ban on partial birth abortion. Some people rejoiced and thought it was the right thing to do but I think I would like to relate to you something that I witnessed when I was a student nurse in a catholic hospital in Arizona. I was a student so, obviously, it was over fifty years ago but I’ve never forgotten it. I was in the delivery room and there was a woman who couldn’t have a baby. It was a baby that had hydrocephalus, which is too much fluid on the brain. It was a breech delivery so the body was already out. So, what had to happen was something had to be, they had to make it able so that could come through the birth canal. The doctor had to stick a needle into the baby's brain and withdraw some of the fluid and at the end the head had to be crushed. Now, for years when I have been asked how I stand on this issue, I’ve always said,

'This is a decision that should be made by a woman together with her physician within her values.' This should not ever be a political decision and that is just what happened. I think we need to watch out for this kind of erosion of everyone's rights."

MOTION

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

MOTION

Senator Hargrove moved adoption of the following resolution:

SENATE RESOLUTION
8691

By Senator Hargrove

WHEREAS, Lois Cotton began her service to the Washington State Legislature as an aide to Representative Jim Hargrove in January 1985, and continued her service as a legislative assistant for Senator Jim Hargrove in the Washington State Senate beginning in 1993; and

WHEREAS, Her 23-year dedication to Senator Hargrove proves she has infinite patience; and

WHEREAS, She is so dedicated to her job and senator that she left for Mexico for a week during her first session and once spent an entire day in the office with makeup on only one eye; and

WHEREAS, Her unprecedented loyalty and duty to her position, the constituents of the 24th Legislative District and boss have been admired by the many people she has worked with and for; and

WHEREAS, Lois Cotton has been the loving wife of a pastor, Doug, and mother of two daughters, Jaimie and son-in-law Dave, and Jill and son-in-law Ryan, during her legislative career; and

WHEREAS, Her granddaughters, Olivia, Addilyn, Elliana, Halle, and Alia, bring her much joy, and chasing after them helps her keep her trim figure; and

WHEREAS, You can always count on Lois to have a smile on her face, kind words to share, and to be impeccably dressed; and

WHEREAS, Lois Cotton has chosen to pursue other adventures, and will be leaving the Washington State Legislature at the end of April 2007; and

WHEREAS, Lois will sorely be missed by all who worked with and for her; and

WHEREAS, No one will miss her more than Senator Hargrove;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate officially honor and thank Lois Cotton for her hard work, friendship, and loyalty; and

BE IT FURTHER RESOLVED, That, by request of Senator Hargrove, Lois is not permitted to leave the state Senate; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Lois Cotton and her family.

Senators Hargrove, Stevens, Jacobsen, Brown and Spanel spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8691.

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

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the family of Lois Cotton who were seated in the gallery.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mrs. Lori Hargrove who was seated at the rostrum.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Lois Cotton, who was seated at the rostrum.

REMARKS BY LOIS COTTON

Lois Cotton: "I just want to express my appreciation to all of you. Thank you very much. When Senator Hargrove and I first talked about me not being here after this session he commented, 'Oh, I'm going to have write a resolution; and I said, 'You will not do something like that. That would be so embarrassing; but I'm going to frame this. It's really special. I'm going to miss everyone. Not crying wasn't even an option for me cause I do it really well. I even brought my makeup to reapply knowing that this would be a difficult day today not knowing this was happening but knowing just, I've had so much of an out pouring of love and support, people stopping by my office and thank you to all of you. I hope to at least walk the halls and stick my head in doors occasionally over the next few years. We are very, very excited about the future and this place has been part of my life for like Senator said, twenty-three years and I will never forget you or the experiences. Thank you very much."

MOTION

At 12:02 p.m., on motion of Senator Eide, the Senate was recessed until 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:30 p.m. by President Owen.

PERSONAL PRIVILEGE

Senator Fraser: "My point of personal privilege relates to a gentleman I've known for many, many years who is an employee of the Senate and who I have learned, to my sadness, is going to be probably sad for me, happy for him-he's going to retire. This is Dick Milligan who lives in my district. I first met him years ago when he was a photographer with the Olympian newspaper and he has also been a photographer for the Aberdeen Daily World and he has been a freelance photographer and, I didn't realize, he also was a Marine Corps photographer, cameraman and film editor. He was a presidential support photographer, served in Vietnam, trained combat photographer, supervised photo labs and retired as a Master Sergeant. So, we've had an exceptionally capable, experienced photographer taking pictures of all of our action but not only our action but he has recorded through his photographs a lot of the history of the legislative process and, a particular note, the history of the restoration of the Legislative Building following the Nisqually Earthquake. He's been with the Senate full-time for many years and I think we all have appreciated his skill, his patience, his good cheer. He's always helping us out with one more shot. We wish him and his family well in their retirement."

PERSONAL PRIVILEGE

Senator McCaslin: "If I can go back to 1952 after I was working on my Master's and I got a job offer from Kaiser with $325 a month by the way, I thought I was in hog heaven.

Anyway, I worked as a trainee in the employment office and in safety office. Believe it or not, my boss's name was Dick Milligan, and of course, when I got to Olympia I discovered that here's Dick Milligan son and I'm telling you that Dick the photographer is just as nice as Dick the safety superviser. I was very happy to work for Dick and I'm so proud to know Dick Milligan the photographer. He's done a tremendous job and we're going to miss him. Thank you for all your hard work, Dick."

PERSONAL PRIVILEGE

Senator Honeyford: "I've had the privilege of riding with Dick, even though we made the wrong turn once and went quite a ways. He accompanied us on a tour and did a lot of photographs and I've always appreciated his good positive attitude and the good pictures he's taken and we're certainly going to miss you Dick. Wish you well on your second or third retirement. Thank you."

PERSONAL PRIVILEGE

Senator Eide: "Well, I have to also stand up and say, 'Dick thank you so much for all of your hard years of great picture taking! This gentlemen, you call him in a moments notice and it seems like even during the lunch hour he's down here taking the pictures. He too went on a tour with me. We had some good fond memories of a duck, if I recall correctly, wasn't it at the mint shop? It's just good to be able to call and say, 'Will you come on down? and he says, 'Absolutely.' He's never said no and just all the years taking great pictures and my mom, I remember when my mom and sister came down and he's saying, 'Now 'smile, now smile.' My mother would not smile to save her soul that day for some reason but we managed to finally get one out of her. I wanted to say thank you very much for all the years of hard and great picture taking Dick. You will be missed."

MOTION

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

MESSAGE FROM THE HOUSE

April 20, 2007

MR. PRESIDENT:

The House concurred in Senate amendment(s) to the following bills and passed the bills as amended by the Senate:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1368,
SUBSTITUTE HOUSE BILL NO. 1909,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5009,
SECOND SUBSTITUTE SENATE BILL NO. 5164,
SUBSTITUTE SENATE BILL NO. 5207,
SUBSTITUTE SENATE BILL NO. 5224,
SUBSTITUTE SENATE BILL NO. 5412
SECOND SUBSTITUTE SENATE BILL NO. 5470,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5627,
SECOND SUBSTITUTE SENATE BILL NO. 5790,
SENATE BILL NO. 6167,

MESSAGE FROM THE HOUSE

April 14, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2358 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Spanel moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 2358.

The President declared the question before the Senate to be motion by Senator Spanel that the Senate recede from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 2358.

The motion by Senator Spanel carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 2358.

MOTION

On motion of Senator Spanel, the rules were suspended and Engrossed Substitute House Bill No. 2358 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2358, by House Committee on Transportation (originally sponsored by Representatives Rolfes, Strow, Appleton, Seaquist, VanDeWege, Lantz, Flannigan, Roberts, Cody, Green, Eickmeyer, Jarrett and Kessler)

Regarding state ferries.

The measure was read the second time.

MOTION

Senator Spanel moved that the following striking amendment by Senators Spanel and Haugen be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds from the 2006 Washington state ferries financing study that the state has limited information on state ferry users and markets. Accurate user and market information is vital in order to find ways to maximize the ferry systems' current capacity and to make the most efficient use of citizens' tax dollars. Therefore, it is the intent of the legislature that Washington state ferries be given the tools necessary to maximize the utilization of existing capacity and to make the most efficient use of existing assets and tax dollars. Furthermore, it is the intent of the legislature that the department of transportation adopt adaptive management practices in its operating and capital programs so as to keep the costs of the Washington state ferries system as

low as possible while continuously improving the quality and timeliness of service.

Sec. 2. RCW 47.06.140 and 1998 c 171 s 7 are each amended to read as follows:

(1) The legislature declares the following transportation facilities and services to be of statewide significance: The interstate highway system, interregional state principal arterials including ferry connections that serve statewide travel, intercity passenger rail services, intercity high-speed ground transportation, major passenger intermodal terminals excluding all airport facilities and services, the freight railroad system, the Columbia/Snake navigable river system, marine port facilities and services that are related solely to marine activities affecting international and interstate trade, and high-capacity transportation systems serving regions as defined in RCW 81.104.015. The department, in cooperation with regional transportation planning organizations, counties, cities, transit agencies, public ports, private railroad operators, and private transportation providers, as appropriate, shall plan for improvements to transportation facilities and services of statewide significance in the statewide multimodal plan. Improvements to facilities and services of statewide significance identified in the statewide multimodal plan are essential state public facilities under RCW 36.70A.200.

(2) The department of transportation, in consultation with local governments, shall set level of service standards for state highways and state ferry routes of statewide significance. Although the department shall consult with local governments when setting level of service standards, the department retains authority to make final decisions regarding level of service standards for state highways and state ferry routes of statewide significance. In establishing level of service standards for state highways and state ferry routes of statewide significance, the department shall consider the necessary balance between providing for the free interjurisdictional movement of people and goods and the needs of local communities using these facilities. When setting the level of service standards under this section for state ferry routes, the department may allow for a standard that is adjustable for seasonality.

NEW SECTION. **Sec. 3.** A new section is added to chapter 47.60 RCW to read as follows:

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

(1) "Adaptive management" means a systematic process for continually improving management policies and practices by learning from the outcomes of operational programs.

(2) "Capital plan" means the state ferry system plan developed by the department as described in RCW 47.06.050(2) and adopted by the commission.

(3) "Capital project" has the same meaning as used in budget instructions developed by the office of financial management.

(4) "Commission" means the transportation commission created in RCW 47.01.051.

(5) "Improvement project" has the same meaning as in the budget instructions developed by the office of financial management. If the budget instructions do not define improvement project, then it has the same meaning as "program project" in the budget instructions. If a project meets both the improvement project and preservation project definitions in this section it must be defined as an improvement project. New vessel acquisitions must be defined as improvement projects.

(6) "Life-cycle cost model" means that portion of a capital asset inventory system which, among other things, is used to estimate future preservation needs.

(7) "Maintenance cost" has the same meaning as used in budget instructions developed by the office of financial management.

(8) "Preservation project" has the same meaning as used in budget instructions developed by the office of financial management.

(9) "Route" means all ferry sailings from one location to another, such as the Seattle to Bainbridge route or the Port Townsend to Keystone route.

(10) "Sailing" means an individual ferry sailing for a specific route, such as the 5:00 p.m. sailing from Seattle to Bremerton.

(11) "Travel shed" means one or more ferry routes with distinct characteristics as determined by the department.

NEW SECTION. **Sec. 4.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The commission shall, with the involvement of the department, conduct a survey to gather data on ferry users to help inform level of service, operational, pricing, planning, and investment decisions. The survey must include, but is not limited to:

(a) Recreational use;

(b) Walk-on customer use;

(c) Vehicle customer use;

(d) Freight and goods movement demand; and

(e) Reactions to potential operational strategies and pricing policies described under section 7 of this act and RCW 47.60.290.

(2) The commission shall develop the survey after providing an opportunity for ferry advisory committees to offer input.

(3) The survey must be updated at least every two years and maintained to support the development and implementation of adaptive management of ferry services.

Sec. 5. RCW 47.60.290 and 1983 c 3 s 136 are each amended to read as follows:

((~~Subject to the provisions of RCW 47.60.326,~~)) (1) The department ((~~is hereby authorized and directed to~~)) shall annually review ((~~tariffs and charges as~~)) fares and pricing policies applicable to the operation of the Washington state ferries ((~~for the purpose of establishing a more fair and equitable tariff to be charged passengers, vehicles, and commodities on the routes of the Washington state ferries~~)).

(2) Beginning in 2008, the department shall develop fare and pricing policy proposals that must:

(a) Recognize that each travel shed is unique, and might not have the same farebox recovery rate and the same pricing policies;

(b) Use data from the current survey conducted under section 4 of this act;

(c) Be developed with input from affected ferry users by public hearing and by review with the affected ferry advisory committees, in addition to the data gathered from the survey conducted in section 4 of this act;

(d) Generate the amount of revenue required by the biennial transportation budget;

(e) Consider the impacts on users, capacity, and local communities; and

(f) Keep fare schedules as simple as possible.

(3) While developing fare and pricing policy proposals, the department must consider the following:

(a) Options for using pricing to level vehicle peak demand; and

(b) Options for using pricing to increase off-peak ridership.

NEW SECTION. **Sec. 6.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The commission shall adopt fares and pricing policies by rule, under chapter 34.05 RCW, according to the following schedule:

(a) Each year the department shall provide the commission a report of its review of fares and pricing policies, with recommendations for the revision of fares and pricing policies for the ensuing year;

(b) By September 1st of each year, beginning in 2008, the commission shall adopt by rule fares and pricing policies for the ensuing year.

(2) The commission may adopt by rule fares that are effective for more or less than one year for the purposes of

transitioning to the fare schedule in subsection (1) of this section.

(3) The commission may increase ferry fares included in the schedule of charges adopted under this section by a percentage that exceeds the fiscal growth factor.

(4) The chief executive officer of the ferry system may authorize the use of promotional, discounted, and special event fares to the general public and commercial enterprises for the purpose of maximizing capacity use and the revenues collected by the ferry system. The department shall report to the commission a summary of the promotional, discounted, and special event fares offered during each fiscal year and the financial results from these activities.

(5) Fare revenues and other revenues deposited in the Puget Sound ferry operations account created in RCW 47.60.530 may not be used to support the Puget Sound capital construction account created in RCW 47.60.505, unless the support for capital is separately identified in the fare.

(6) The commission may not raise fares until the fare rules contain pricing policies developed under section 5 of this act, or September 1, 2009, whichever is later.

NEW SECTION. **Sec. 7.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The department shall develop, and the commission shall review, operational strategies to ensure that existing assets are fully utilized and to guide future investment decisions. These operational strategies must, at a minimum:

(a) Recognize that each travel shed is unique and might not have the same operational strategies;

(b) Use data from the current survey conducted under section 4 of this act;

(c) Be consistent with vehicle level of service standards;

(d) Choose the most efficient balance of capital and operating investments by using a life-cycle cost analysis; and

(e) Use methods of collecting fares that maximize efficiency and achieve revenue management control.

(2) After the commission reviews recommendations by the department, the commission and department shall make joint recommendations to the legislature for the improvement of operational strategies.

(3) In developing operational strategies, the following, at a minimum, must be considered:

(a) The feasibility of using reservation systems;

(b) Methods of shifting vehicular traffic to other modes of transportation;

(c) Methods of improving on-dock operations to maximize efficiency and minimize operating and capital costs;

(d) A cost-benefit analysis of remote holding versus over-water holding;

(e) Methods of reorganizing holding areas and minimizing on-dock employee parking to maximize the dock size available for customer vehicles;

(f) Schedule modifications;

(g) Efficiencies in exit queuing and metering;

(h) Interoperability with other transportation services;

(i) Options for leveling vehicle peak demand; and

(j) Options for increasing off-peak ridership.

(4) Operational strategies must be reevaluated periodically and, at a minimum, before developing a new capital plan.

Sec. 8. RCW 47.60.330 and 2003 c 374 s 5 are each amended to read as follows:

(1) Before a substantial change to the service levels provided to ferry users, the department shall consult with affected ferry users by public hearing and by review with the affected ferry advisory committees.

(2) Before ((~~a substantial expansion or curtailment in the level of service provided to ferry users, or a revision in the schedule of ferry tolls or charges~~)) adding or eliminating a ferry route, the department ((~~of transportation~~)) shall consult with affected ferry users and receive legislative approval. ((~~The consultation shall be: (a) By public hearing in affected local communities; (b) by review with the affected ferry advisory committees pursuant to RCW 47.60.310; (c) by conducting a survey of affected ferry users; or (d) by any combination of (a) through (c).~~

~~Promotional, discount, and special event fares that are not part of the published schedule of ferry charges or tolls are exempt. The department shall report an accounting of all exempt revenues to the transportation commission each fiscal year.~~

~~(2) There is created a ferry system productivity council consisting of a representative of each ferry advisory committee empanelled under RCW 47.60.310, elected by the members thereof, and two representatives of employees of the ferry system appointed by mutual agreement of all of the unions representing ferry employees, which shall meet from time to time with ferry system management to discuss means of improving ferry system productivity.~~

~~(3) Before increasing ferry tolls the department of transportation shall consider all possible cost reductions with full public participation as provided in subsection (1) of this section and, consistent with public policy, shall consider adapting service levels equitably on a route-by-route basis to reflect trends in and forecasts of traffic usage. Forecasts of traffic levels shall be developed by the bond covenant traffic engineering firm appointed under the provisions of RCW 47.60.450. Provisions of this section shall not alter obligations under RCW 47.60.450. Before including any toll increase in a budget proposal by the commission, the department of transportation shall consult with affected ferry users in the manner prescribed in (1)(b) of this section plus the procedure of either (1)(a) or (c) of this section.~~))

NEW SECTION. **Sec. 9.** A new section is added to chapter 47.60 RCW to read as follows:

(1) Appropriations made for the Washington state ferries capital program may not be used for maintenance costs.

(2) Appropriations made for preservation projects shall be spent only on preservation and only when warranted by asset condition, and shall not be spent on master plans, right-of-way acquisition, or other nonpreservation items.

(3) Systemwide and administrative capital program costs shall be allocated to specific capital projects using a cost allocation plan developed by the department. Systemwide and administrative capital program costs shall be identifiable.

NEW SECTION. **Sec. 10.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The department shall maintain a life-cycle cost model on capital assets such that:

(a) Available industry standards are used for estimating the life of an asset, and department-adopted standard life cycles derived from the experience of similar public and private entities are used when industry standards are not available;

(b) Standard estimated life is adjusted for asset condition when inspections are made;

(c) It does not include utilities or other systems that are not replaced on a standard life cycle; and

(d) It does not include assets not yet built.

(2) All assets in the life-cycle cost model must be inspected and updated in the life-cycle cost model for asset condition at least every three years.

(3) The life-cycle cost model shall be used when estimating future system preservation needs.

NEW SECTION. **Sec. 11.** A new section is added to chapter 47.60 RCW to read as follows:

(1) Preservation funding requests shall only be for assets in the life-cycle cost model.

(2) Preservation funding requests that exceed five million dollars per project must be accompanied by a predesign study. The predesign study must include all elements required by the office of financial management.

NEW SECTION. **Sec. 12.** A new section is added to chapter 47.60 RCW to read as follows:

The department shall develop terminal design standards that:

(1) Adhere to vehicle level of service standards as described in RCW 47.06.140;

(2) Adhere to operational strategies as described in section 7 of this act; and

(3) Choose the most efficient balance between capital and operating investments by using a life-cycle cost analysis.

NEW SECTION. **Sec. 13.** A new section is added to chapter 47.60 RCW to read as follows:

The capital plan must adhere to the following:

(1) A current ridership demand forecast;

(2) Vehicle level of service standards as described in RCW 47.06.140;

(3) Operational strategies as described in section 7 of this act; and

(4) Terminal design standards as described in section 12 of this act.

NEW SECTION. **Sec. 14.** A new section is added to chapter 47.60 RCW to read as follows:

(1) Terminal improvement project funding requests must adhere to the capital plan.

(2) Requests for terminal improvement design and construction funding must be submitted with a predesign study that:

(a) Includes all elements required by the office of financial management;

(b) Separately identifies basic terminal elements essential for operation and their costs;

(c) Separately identifies additional elements to provide ancillary revenue and customer comfort and their costs;

(d) Includes construction phasing options that are consistent with forecasted ridership increases;

(e) Separately identifies additional elements requested by local governments and the cost and proposed funding source of those elements;

(f) Separately identifies multimodal elements and the cost and proposed funding source of those elements; and

(g) Identifies all contingency amounts.

NEW SECTION. **Sec. 15.** A new section is added to chapter 47.60 RCW to read as follows:

(1) The joint legislative audit and review committee shall assess and report as follows:

(a) Audit the implementation of the cost allocation methodology evaluated under chapter . . . (Engrossed Substitute House Bill No. 1094), Laws of 2007, as it exists on the effective date of this section, assessing whether actual costs are allocated consistently with the methodology, whether there are sufficient internal controls to ensure proper allocation, and the adequacy of staff training; and

(b) Review the assignment of preservation costs and improvement costs for fiscal year 2009 to determine whether:

(i) The costs are capital costs;

(ii) The costs meet the statutory requirements for preservation activities and for improvement activities; and

(iii) Improvement costs are within the scope of legislative appropriations.

(2) The report on the evaluations in this section is due by January 31, 2010.

(3) This section expires December 31, 2010.

NEW SECTION. **Sec. 16.** The following acts or parts of acts are each repealed:

(1) RCW 47.60.150 (Fixing of charges--Deposit of revenues) and 2003 c 374 s 3, 1999 c 94 s 26, & 1990 c 42 s 405; and

(2) RCW 47.60.326 (Schedule of charges for state ferries--Review by department, factors considered--Rule making by commission) and 2005 c 270 s 1, 2003 c 374 s 4, 2001 1st sp.s. c 1 s 1, 1999 c 94 s 27, 1990 c 42 s 406, 1983 c 15 s 25, & 1981 c 344 s 5."

Senator Spanel spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Spanel and Haugen to Engrossed Substitute House Bill No. 2358.

The motion by Senator Spanel 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 "ferries;" strike the remainder of the title and insert "amending RCW 47.06.140, 47.60.290, and 47.60.330; adding new sections to chapter 47.60 RCW; creating a new section; repealing RCW 47.60.150 and 47.60.326; and providing an expiration date."

MOTION

On motion of Senator Spanel, the rules were suspended, Engrossed Substitute House Bill No. 2358 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 Spanel, Haugen and Swecker spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senator Brown was excused.

MOTION

On motion of Senator Brandland, Senators Delvin and Hewitt were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2358 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2358 as am ended 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, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, 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 - 47

Voting nay: Senator Holmquist - 1

Excused: Senator Delvin - 1

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2358 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 17, 2007

MR. PRESIDENT:

Under suspension of rules ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5841 was returned to second reading for purpose of an amendment: 5841-S2.E AMH SANT H3560.1, and passed the House as amended by the House.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.150.210 and 1993 c 336 s 101 are each amended to read as follows:

((~~The goal of the Basic Education Act for the schools of the state of Washington set forth in this chapter shall be to provide students with the opportunity to become responsible citizens, to contribute to their own economic well-being and to that of their families and communities, and to enjoy productive and satisfying lives. To these ends, the goals of each school district, with the involvement of parents and community members, shall be to provide opportunities for all students to develop the knowledge and skills essential to:~~

~~(1) Read with comprehension, write with skill, and communicate effectively and responsibly in a variety of ways and settings;~~

~~(2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; civics and history; geography; arts; and health and fitness;~~

~~(3) Think analytically, logically, and creatively, and to integrate experience and knowledge to form reasoned judgments and solve problems; and~~

~~(4) Understand the importance of work and how performance, effort, and decisions directly affect future career and educational opportunities.~~)) The goal of the basic education act for the schools of the state of Washington set forth in this chapter shall be to provide students with the opportunity to become responsible and respectful global citizens, to contribute to their economic well-being and that of their families and communities, to explore and understand different perspectives, and to enjoy productive and satisfying lives. Additionally, the state of Washington intends to provide for a public school system that is able to evolve and adapt in order to better focus on strengthening the educational achievement of all students, which includes high expectations for all students and gives all students the opportunity to achieve personal and academic success. To these ends, the goals of each school district, with the involvement of parents and community members, shall be to provide opportunities for every student to develop the knowledge and skills essential to:

(1) Read with comprehension, write effectively, and communicate successfully in a variety of ways and settings and with a variety of audiences;

(2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; civics and history, including different cultures and participation in representative government; geography; arts; and health and fitness;

(3) Think analytically, logically, and creatively, and to integrate different experiences and knowledge to form reasoned judgments and solve problems; and

(4) Understand the importance of work and finance and how performance, effort, and decisions directly affect future career and educational opportunities.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.150 RCW to read as follows:

ALL-DAY KINDERGARTEN PROGRAMS--FUNDING. (1) Beginning with the 2007-08 school year, funding for voluntary all-day kindergarten programs shall be phased-in beginning with schools with the highest poverty levels, defined as those schools with the highest percentages of students qualifying for free and reduced-price lunch support in the prior school year. Once a school receives funding for the all-day kindergarten program, that school shall remain eligible for funding in subsequent school years regardless of changes in the school's percentage of students eligible for free and reduced-price lunches as long as other program requirements are fulfilled. Additionally, schools receiving all-day kindergarten program support shall agree to the following conditions:

(a) Provide at least a one thousand-hour instructional program;

(b) Provide a curriculum that offers a rich, varied set of experiences that assist students in:

(i) Developing initial skills in the academic areas of reading, mathematics, and writing;

(ii) Developing a variety of communication skills;

(iii) Providing experiences in science, social studies, arts, health and physical education, and a world language other than English;

(iv) Acquiring large and small motor skills;

(v) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and

(vi) Learning through hands-on experiences;

(c) Establish learning environments that are developmentally appropriate and promote creativity;

(d) Demonstrate strong connections and communication with early learning community providers; and

(e) Participate in kindergarten program readiness activities with early learning providers and parents.

(2) Subject to funds appropriated for this purpose, the superintendent of public instruction shall designate one or more school districts to serve as resources and examples of best practices in designing and operating a high-quality all-day kindergarten program. Designated school districts shall serve as lighthouse programs and provide technical assistance to other school districts in the initial stages of implementing an all-day kindergarten program. Examples of topics addressed by the technical assistance include strategic planning, developing the instructional program and curriculum, working with early learning providers to identify students and communicate with parents, and developing kindergarten program readiness activities.

(3) Any funds allocated to support all-day kindergarten programs under this section shall not be considered as basic education funding.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.630 RCW to read as follows:

PRIMARY LEVEL EDUCATION PROJECTS. Subject to funds appropriated for the purposes of this section:

(1) Four demonstration projects are authorized for schools serving kindergarten through third grade students to develop, implement, and document the effects of a comprehensive K-3 foundations program. At least two demonstration projects shall be in schools that are participating in the public- private early learning partnerships in the Highline and Yakima school districts. A third demonstration project shall be in the Spokane school district.

(2) The superintendent of public instruction shall select project participants based on the criteria in this section, the commitment to a school-wide program, and the degree to which applicants articulate an understanding of development and implementation of a comprehensive K-3 foundations program.

(3) Successful school applicants shall:

(a) Demonstrate that there is engaged and committed school and district leadership and support for the project;

(b) Demonstrate that school staff is engaged and committed and believes in high expectations for all students;

(c) Have a history of successfully using data to guide decision making for students and the program;

(d) Plan for the use of staff learning improvement days to support project implementation;

(e) Demonstrate successful linkages with the early learning providers in their communities;

(f) Outline the steps taken to develop this application and the general plan for implementation of a comprehensive K-3 foundations program; and

(g) Commit to individualized learning opportunities in early grades by using district resources, such as funding under RCW 28A.505.210, to reduce class sizes in grades kindergarten through three.

(4) Program resources provided to demonstration projects are:

(a) Support to implement an all-day kindergarten program;

(b) Support for class sizes at a ratio of one teacher to eighteen students, and the additional resources for materials generated by that ratio through associated nonemployee-related costs;

(c) Support for a one-half full-time equivalent instructional coach; and

(d) Support for professional development time related to program implementation.

(5) Demonstration projects shall provide:

(a) A program that implements an educational philosophy that supports child-centered learning;

(b) Learning opportunities through personal exploration and discovery, hands-on experiences, and by working independently, in small groups and in large groups;

(c) Rich and varied subject matter that includes: Reading, writing, mathematics, science, social studies, a world language other than English, the arts, and health and physical education;

(d) Opportunities to learn and feel accomplishment, diligence, creativity, and confidence;

(e) Social and emotional development opportunities;

(f) Personalized assessment for each student that addresses academic knowledge and skill development, social and emotional skill development, critical thinking and decision-making skills, large and fine motor skill development, and knowledge of personal interests, strengths, and goals;

(g) For students to progress to the upper elementary grades when a solid foundation is in place and reading and mathematics primary skills have been mastered;

(h) Class sizes that do not exceed one certificated instructional staff to eighteen students; and

(i) Cooperation with project evaluators in an evaluation of the demonstration projects, including providing the data necessary to complete the work.

(6) The office of the superintendent of public instruction shall contract with the Northwest regional educational laboratory to conduct an evaluation of the demonstration projects under this section. Student, staff, program, and parent data shall be collected using various instruments including surveys, program and activity descriptions, student performance measures, observations, and other processes.

(7) Within available funding, findings from the evaluation under this section shall include conclusions regarding the degree to which students thrive in the education environment; student progress in academic, social, and emotional areas; the program components that have been most important to student success; the degree to which educational staff feel accomplished in their work and satisfied with student progress; and recommendations for continued implementation and expansion of the program.

(8) Findings shall be reported to the governor, the office of the superintendent of public instruction, and the appropriate early learning, education, and fiscal committees of the legislature. An interim report is due November 1, 2008. The final report is due December 1, 2009.

(9) This section expires September 1, 2010.

NEW SECTION. **Sec. 4.** A new section is added to chapter 28A.630 RCW to read as follows:

ENGLISH AS A SECOND LANGUAGE PROJECTS. (1) The goals of the English as a second language demonstration project are to develop recommendations:

(a) Identifying foundational competencies for developing academic English skills in English language learner students that all teachers should acquire in initial teacher preparation programs;

(b) Identifying components of a professional development program that builds classroom teacher competence for developing academic English skills in English language learner students; and

(c) Identifying job-embedded practices that connect the English language learner teacher and classroom teachers to coordinate instruction to support the work of the student.

(2) The English as a second language demonstration project shall use two field strategies in the development of recommendations.

(a) The first strategy is to conduct a field study of an ongoing project in a number of schools and school districts in which Spanish is the predominate language other than English.

(b) The second strategy is to conduct a project that provides professional development and planning time resources to approximately three large schools in which there are many first languages among the students. The participants of this project shall partner with an institution of higher education or a professional development provider with expertise in supporting student acquisition of academic English. The superintendent of public instruction shall select the participants in the project under this subsection (2)(b).

(3)(a) The office of the superintendent of public instruction shall contract with the Northwest regional educational laboratory to conduct the field study work and collect additional information from the project schools. In conducting its work, the laboratory shall review current literature regarding best practices and consult with state and national experts as appropriate.

(b) The laboratory shall report its findings to the governor, the office of the superintendent of public instruction, and the education and fiscal committees of the legislature. An interim report is due November 1, 2008. The final report is due December 1, 2009.

(4) This section expires September 1, 2010.

NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.215 RCW to read as follows:

COMMUNITY LEARNING CENTER PROGRAM. (1) The Washington community learning center program is established. The program shall be administered by the office of the superintendent of public instruction. The purposes of the program include:

(a) Supporting the creation or expansion of community learning centers that provide students with tutoring and educational enrichment when school is not in session;

(b) Providing training and professional development for community learning center program staff;

(c) Increasing public awareness of the availability and benefits of after-school programs; and

(d) Supporting statewide after-school intermediary organizations in their efforts to provide leadership, coordination, technical assistance, advocacy, and programmatic support to after-school programs throughout the state.

(2)(a) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction may provide community learning center grants to any public or private organization that meets the eligibility criteria of the federal twenty-first century community learning centers program.

(b) Priority may be given to grant requests submitted jointly by one or more schools or school districts and one or more community-based organizations or other nonschool partners.

(c) Priority may also be given to grant requests for after-school programs focusing on improving mathematics achievement, particularly for middle and junior high school students.

(d) Priority shall be given to grant requests that:

(i) Focus on improving reading and mathematics proficiency for students who attend schools that have been identified as

being in need of improvement under section 1116 of Title I of the federal no child left behind act of 2001; and

(ii) Include a public/private partnership agreement or proposal for how to provide free transportation for those students in need that are involved in the program.

(3) Community learning center grant funds may be used to carry out a broad array of out-of-school activities that support and enhance academic achievement. The activities may include but need not be limited to:

(a) Remedial and academic enrichment;

(b) Mathematics, reading, and science education;

(c) Arts and music education;

(d) Entrepreneurial education;

(e) Community service;

(f) Tutoring and mentoring programs;

(g) Programs enhancing the language skills and academic achievement of limited English proficient students;

(h) Recreational and athletic activities;

(i) Telecommunications and technology education;

(j) Programs that promote parental involvement and family literacy;

(k) Drug and violence prevention, counseling, and character education programs; and

(l) Programs that assist students who have been truant, suspended, or expelled, to improve their academic achievement.

(4) Each community learning center grant may be made for a maximum of five years. Each grant recipient shall report annually to the office of the superintendent of public instruction on what transportation services are being used to assist students in accessing the program and how those services are being funded. Based on this information, the office of the superintendent of public instruction shall compile a list of transportation service options being used and make that list available to all after-school program providers that were eligible for the community learning center program grants.

(5) To the extent that funding is available for this purpose, the office of the superintendent of public instruction may provide grants or other support for the training and professional development of community learning center staff, the activities of intermediary after- school organizations, and efforts to increase public awareness of the availability and benefits of after-school programs.

(6) Schools or school districts that receive a community learning center grant under this section may seek approval from the office of the superintendent of public instruction for flexibility to use a portion of their state transportation funds for the costs of transporting students to and from the community learning center program.

(7) The office of the superintendent of public instruction shall evaluate program outcomes and report to the governor and the education committees of the legislature on the outcomes of the grants and make recommendations related to program modification, sustainability, and possible expansion. An interim report is due November 1, 2008. A final report is due December 1, 2009.

NEW SECTION. **Sec. 6.** CAREER PATHWAYS PROGRAMS. (1) Subject to funds appropriated for this purpose, the superintendent of public instruction shall provide grants to support development of career pathways programs in high-demand fields. A portion of the appropriated funds shall be administered by an experienced nonprofit health organization and be used to create health care career pathways with geographically dispersed high school partnerships. The remaining funds shall be used to provide grants to geographically dispersed high school partnerships to create career pathways in the trades, mechanics and engineering, or other field identified by the partnership as high demand and appropriate to meet the workforce education needs in its region.

(2) To be eligible for a grant, high schools must form partnerships of parents, students, special populations, academic and career and technical education teachers and administrators, workforce development faculty and administrators, career guidance and academic counselors, representatives of tech-prep consortia, local workforce development councils, representatives of local skill centers and local skills panels, apprenticeship councils, and business and labor organizations in the community.

(3) Grant recipients must develop and implement a model curriculum for their selected career pathway. Grant funds shall be used for start-up costs, primarily for the development of the curriculum and assessments described in this section and for professional development for teachers. If sufficient funds remain, grant funds may be used to upgrade equipment within the program to meet industry standards.

(4) A career pathways program shall:

(a) Integrate core academic standards for reading, writing, and mathematics with high-quality career and technical preparation based on accepted industry standards in the field;

(b) Incorporate secondary and postsecondary education elements;

(c) Be coherent, sequenced, and articulated to community and technical college courses to provide high school students with dual credit for both high school graduation and college, and to prepare students to succeed in postsecondary education programs in the field;

(d) Lead to an industry-recognized credential or certificate at the postsecondary level or an associate or baccalaureate degree; and

(e) Emphasize projects and application of knowledge and skills and provide extensive opportunities for work-based learning and internships.

(5) Students who are struggling with core academic skills, including the Washington assessment of student learning, shall receive supplemental assistance and instruction within the program, including assistance to create a career and technical collection of evidence as an alternative to the Washington assessment of learning.

(6) Participants in a high-demand career pathways program should expect to complete a high school diploma and the appropriate courses in a high-quality career and technical program and graduate ready to pursue postsecondary education.

(7) With assistance from the office of the superintendent of public instruction and the workforce training and education coordinating board, grant recipients shall develop end-of-program assessments for their high-demand career pathways program. The assessments shall be integrated to include academic, work readiness, and technical knowledge and skills. The legislature's intent is to use these assessments as prototypes for possible future additional alternative assessments for career and technical education students to demonstrate they meet the state's learning standards.

(8) Grant recipients must develop a communications strategy for parents and students in other area high schools and middle schools to promote the model career pathways programs as a high-quality learning option for students and prepare plans for replication of the programs.

(9) For the purposes of this section, "career pathways program" has the same meaning as a career and technical program of study under P.L. 109-270, the Carl D. Perkins career and technical education improvement act of 2006.

(10) This section expires July 1, 2009.

NEW SECTION. **Sec. 7.** A new section is added to chapter 28A.300 RCW to read as follows:

WORLD LANGUAGES. Subject to funds appropriated for this purpose, the superintendent of public instruction shall assign at least one full-time equivalent staff position within the office of the superintendent of public instruction to serve as the world language supervisor. The world language supervisor shall have the following duties and responsibilities:

(1) Develop, conduct, and oversee professional development for teachers on grade level expectations, state and national standards, and best practices in instruction for world languages;

(2) Provide technical assistance to schools in designing elementary and middle school language programs, selecting and designing high quality curriculum, and providing professional development;

(3) Advise in the development of online world language courses;

(4) Create a clearinghouse of information and materials to support high quality world language instruction at the elementary and secondary levels;

(5) Secure and implement grants, including federal grants, to enhance world language programs;

(6) Encourage and foster an articulated curriculum for world languages through elementary, secondary, and postsecondary grades;

(7) Establish and maintain a state database for world language course offerings in schools and school districts;

(8) Implement memoranda of understanding with ministries of education in other countries, including interviewing, selecting, securing visas for, and providing orientation for visiting teachers;

(9) Serve in an advisory capacity on committees or work groups regarding teacher certification, advanced placement programs, and textbook publishing and selection; and

(10) Serve as an education liaison with the business, trade, and economic development communities.

NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.155 RCW to read as follows:

SAFETY NET. The office of the superintendent of public instruction shall review and streamline the application process to access special education safety net funds, provide technical assistance to school districts, and annually survey school districts regarding improvements to the process.

NEW SECTION. **Sec. 9.** Captions used in this act are not any part of the law."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hobbs moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5841.

Senator Hobbs spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Hobbs that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5841.

The motion by Senator Hobbs carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5841 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5841, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5841, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 14; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Tom and Weinstein - 34

Voting nay: Senators Benton, Brandland, Carrell, Clements, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug, Schoesler, Stevens, Swecker and Zarelli - 14

Excused: Senator Delvin - 1

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5841, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 17, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SECOND SUBSTITUTE HOUSE BILL NO. 2220 and asks Senate to recede therefrom.

and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 2220.

The President declared the question before the Senate to be motion by Senator Rockefeller that the Senate recede from its position in the Senate amendment(s) to Second Substitute House Bill No. 2220.

The motion by Senator Rockefeller carried and the Senate receded from its position in the Senate amendment(s) to Second Substitute House Bill No. 2220.

MOTION

On motion of Senator Rockefeller, the rules were suspended and Second Substitute House Bill No. 2220 was returned to second reading for the purposes of amendment.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2220, by House Committee on Appropriations (originally sponsored by Representative Lantz)

Regarding shellfish. Revised for 2nd Substitute: Regarding shellfish aquaculture.

The measure was read the second time.

MOTION

Senator Rockefeller moved that the following striking amendment by Senator Rockefeller and others be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.20 RCW to read as follows:

(1) The sea grant program at the University of Washington shall, consistent with this section, commission a series of scientific research studies that examines the possible effects, including the cumulative effects, of the current prevalent

geoduck aquaculture techniques and practices on the natural environment in and around Puget Sound, including the Strait of Juan de Fuca. The sea grant program shall use funding provided from the geoduck aquaculture research account created in section 2 of this act to review existing literature, directly perform research identified as needed, or to enter into and manage contracts with scientific organizations or institutions to accomplish these results.

(2) Prior to entering into a contract with a scientific organization or institution, the sea grant program must:

(a) Analyze, through peer review, the credibility of the proposed party to the contract, including whether the party has credible experience and knowledge and has access to the facilities necessary to fully execute the research required by the contract; and

(b) Require that all proposed parties to a contract fully disclose any past, present, or planned future personal or professional connections with the shellfish industry or public interest groups.

(3) All research commissioned under this section must be subjected to a rigorous peer review process prior to being accepted and reported by the sea grant program.

(4) In prioritizing and directing research under this section, the sea grant program shall meet with the department of ecology at least annually and rely on guidance submitted by the department of ecology. The department of ecology shall convene the shellfish aquaculture regulatory committee created in section 4 of this act as necessary to serve as an oversight committee to formulate the guidance provided to the sea grant program. The objective of the oversight committee, and the resulting guidance provided to the sea grant program, is to ensure that the research required under this section satisfies the planning, permitting, and data management needs of the state, to assist in the prioritization of research given limited funding, and to help identify any research that is beneficial to complete other than what is listed in subsection (5) of this section.

(5) To satisfy the minimum requirements of subsection (1) of this section, the sea grant program shall review all scientific research that is existing or in progress that examines the possible effect of currently prevalent geoduck practices, on the natural environment, and prioritize and conduct new studies as needed, to measure and assess the following:

(a) The environmental effects of structures commonly used in the aquaculture industry to protect juvenile geoducks from predation;

(b) The environmental effects of commercial harvesting of geoducks from intertidal geoduck beds, focusing on current prevalent harvesting techniques, including a review of the recovery rates for benthic communities after harvest;

(c) The extent to which geoducks in standard aquaculture tracts alter the ecological characteristics of overlying waters while the tracts are submerged, including impacts on species diversity, and the abundance of other benthic organisms;

(d) Baseline information regarding naturally existing parasites and diseases in wild and cultured geoducks, including whether and to what extent commercial intertidal geoduck aquaculture practices impact the baseline;

(e) Genetic interactions between cultured and wild geoduck, including measurements of differences between cultured geoducks and wild geoducks in terms of genetics and reproductive status; and

(f) The impact of the use of sterile triploid geoducks and whether triploid animals diminish the genetic interactions between wild and cultured geoducks.

(6) If adequate funding is not made available for the completion of all research required under this section, the sea grant program shall consult with the shellfish aquaculture regulatory committee, via the department of ecology, to prioritize which of the enumerated research projects have the greatest cost/benefit ratio in terms of providing information important for regulatory decisions; however, the study identified in subsection (5)(b) of this section shall receive top priority. The prioritization process may include the addition of any new studies that may be appropriate in addition to, or in place of, studies listed in this section.

(7) When appropriate, all research commissioned under this section must address localized and cumulative effects of geoduck aquaculture.

(8) The sea grant program and the University of Washington are prohibited from retaining greater than fifteen percent of any funding provided to implement this section for administrative overhead or other deductions not directly associated with conducting the research required by this section.

(9) Individual commissioned contracts under this section may address single or multiple components listed for study under this section.

(10) All research commissioned under this section must be completed and the results reported to the appropriate committees of the legislature by December 1, 2013. In addition, the sea grant program shall provide the appropriate committees of the legislature with annual reports updating the status and progress of the ongoing studies that are completed in advance of the 2013 deadline.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28B.20 RCW to read as follows:

The geoduck aquaculture research account is created in the custody of the state treasurer. All receipts from any legislative appropriations, the aquaculture industry, or any other private or public source directed to the account must be deposited in the account. Expenditures from the account may only be used by the sea grant program for the geoduck research projects identified by section 1 of this act. Only the president of the University of Washington or the president's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 3. RCW 79.135.100 and 1984 c 221 s 10 are each amended to read as follows:

(1) If state-owned aquatic lands are used for aquaculture production or harvesting, rents and fees shall be established through competitive bidding or negotiation.

(2) After an initial twenty-three acres are leased, the department is prohibited from offering leases that would permit the intertidal commercial aquaculture of geoducks on more than fifteen acres of state-owned aquatic lands a year until December 1, 2014.

(3) Any intertidal leases entered into by the department for geoduck aquaculture must be conditioned in such a way that the department can engage in monitoring of the environmental impacts of the lease's execution, without unreasonably diminishing the economic viability of the lease, and that the lease tracts are eligible to be made part of the studies conducted under section 1 of this act.

(4) The department must notify all abutting landowners and any landowner within three hundred feet of the lands to be leased of the intent of the department to lease any intertidal lands for the purposes of geoduck aquaculture.

NEW SECTION. **Sec. 4.** (1) The shellfish aquaculture regulatory committee is established to, consistent with this section, serve as an advisory body to the department of ecology on regulatory processes and approvals for all current and new shellfish aquaculture activities, and the activities conducted pursuant to RCW 90.58.060, as the activities relate to shellfish. The shellfish aquaculture regulatory committee is advisory in nature, and no vote or action of the committee may overrule existing statutes, regulations, or local ordinances.

(2) The shellfish aquaculture regulatory committee shall develop recommendations as to:

(a) A regulatory system or permit process for all current and new shellfish aquaculture projects and activities that integrates all applicable existing local, state, and federal regulations and is efficient both for the regulators and the regulated; and

(b) Appropriate guidelines for geoduck aquaculture operations to be included in shoreline master programs under section 5 of this act. When developing the recommendations for guidelines under this subsection, the committee must examine the following:

(i) Methods for quantifying and reducing marine litter; and

(ii) Possible landowner notification policies and requirements for establishing new geoduck aquaculture farms.

(3)(a) The members of the shellfish aquaculture regulatory committee shall be appointed by the director of the department of ecology as follows:

(i) Two representatives of county government, one from a county located on the Puget Sound, and one from a county located on the Pacific Ocean;

(ii) Two individuals who are professionally engaged in the commercial aquaculture of shellfish, one who owns or operates an aquatic farm in Puget Sound, and one who owns or operates an aquatic farm in state waters other than the Puget Sound;

(iii) Two representatives of organizations representing the environmental community;

(iv) Two individuals who own shoreline property, one of which does not have a commercial geoduck operation on his or her property and one of which who does have a commercial geoduck operation on his or her property; and

(v) One representative each from the following state agencies: The department of ecology, the department of fish and wildlife, the department of agriculture, and the department of natural resources.

(b) In addition to the other participants listed in this subsection, the governor shall invite the full participation of two tribal governments, at least one of which is located within the drainage of the Puget Sound.

(4) The department of ecology shall provide administrative and clerical assistance to the shellfish aquaculture regulatory committee and all agencies listed in subsection (3) of this section shall provide technical assistance.

(5) Nonagency members of the shellfish aquaculture regulatory committee will not be compensated, but are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(6) Any participation by a Native American tribe on the shellfish aquaculture regulatory committee shall not, under any circumstances, be viewed as an admission by the tribe that any of its activities, or those of its members, are subject to any of the statutes, regulations, ordinances, standards, or permit systems reviewed, considered, or proposed by the committee.

(7) The shellfish aquaculture regulatory committee is authorized to form technical advisory panels as needed and appoint to them members not on the shellfish aquaculture regulatory committee.

(8) The department of ecology shall report the recommendations and findings of the shellfish aquaculture regulatory committee to the appropriate committees of the legislature by December 1, 2007, with a further report, if necessary, by December 1, 2008.

NEW SECTION. **Sec. 5.** (1) The department of ecology shall develop, by rule, guidelines for the appropriate siting and operation of geoduck aquaculture operations to be included in any master program under this section. The guidelines adopted under this section must be prepared with the advice of the shellfish aquaculture regulatory committee created in section 4 of this act, which shall serve as the advisory committee for the development of the guidelines.

(2) The guidelines required under this section must be filed for public review and comment no later than six months after the delivery of the final report by the shellfish aquaculture regulatory committee created in section 4 of this act.

(3) The department of ecology shall update the guidelines required under this section, as necessary, after the completion of the geoduck research by the sea grant program at the University of Washington required under section 1 of this act.

Sec. 6. RCW 77.115.040 and 1993 sp.s. c 2 s 58 are each amended to read as follows:

(1) All aquatic farmers, as defined in RCW 15.85.020, shall register with the department. The director shall assign each aquatic farm a unique registration number and develop and maintain in an electronic database a registration list of all aquaculture farms. The department shall establish procedures to annually update the aquatic farmer information contained in the registration list. The department shall coordinate with the department of health using shellfish growing area certification data when updating the registration list.

(2) Registered aquaculture farms shall provide the department ((~~production statistical data~~)) with the following information:

(a) The name of the aquatic farmer;

(b) The address of the aquatic farmer;

(c) Contact information such as telephone, fax, web site, and email address, if available;

(d) The number and location of acres under cultivation, including a map displaying the location of the cultivated acres;

(e) The name of the landowner of the property being cultivated or otherwise used in the aquatic farming operation;

(f) The private sector cultured aquatic product being propagated, farmed, or cultivated; and

(g) Statistical production data.

(3) The state veterinarian shall be provided with registration and statistical data by the department."

Senator Rockefeller 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 and others to Second Substitute House Bill No. 2220.

The motion by Senator Rockefeller 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 "shellfish;" strike the remainder of the title and insert "amending RCW 79.135.100 and 77.115.040; adding new sections to chapter 28B.20 RCW; and creating new sections."

MOTION

On motion of Senator Rockefeller, the rules were suspended, Second Substitute House Bill No. 2220 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 Rockefeller and Morton spoke in favor of passage of the bill.

MOTION

On motion of Senator Brandland, Senator Hewitt was excused.

MOTION

On motion of Senator Regala, Senator McAuliffe was excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2220 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2220 as amended b y 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, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, 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 Delvin, Hewitt and McAuliffe - 3

SECOND SUBSTITUTE HOUSE BILL NO. 2220 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Second Substitute House Bill No. 2220 was immediately transmitted to the House of Representatives.

MOTION

At 2:03 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 4:27 p.m. by President Owen.

MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5372, with the following amendment: 5372-S.E AMH UPTH H3493.2

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature finds that:

(a) Puget Sound, including Hood Canal, and the waters that flow to it are a national treasure and a unique resource. Residents enjoy a way of life centered around these waters that depends upon clean and healthy marine and freshwater resources.

(b) Puget Sound is in serious decline, and Hood Canal is in a serious crisis. This decline is indicated by loss of and damage to critical habit, rapid decline in species populations, increases in aquatic nuisance species, numerous toxics contaminated sites, urbanization and attendant storm water drainage, closure of beaches to shellfish harvest due to disease risks, low-dissolved oxygen levels causing death of marine life, and other phenomena. If left unchecked, these conditions will worsen.

(c) Puget Sound must be restored and protected in a more coherent and effective manner. The current system is highly fragmented. Immediate and concerted action is necessary by all levels of government working with the public, nongovernmental organizations, and the private sector to ensure a thriving natural system that exists in harmony with a vibrant economy.

(d) Leadership, accountability, government transparency, thoughtful and responsible spending of public funds, and public involvement will be integral to the success of efforts to restore and protect Puget Sound.

(2) The legislature therefore creates a new Puget Sound partnership to coordinate and lead the effort to restore and protect Puget Sound, and intends that all governmental entities, including federal and state agencies, tribes, cities, counties, ports, and special purpose districts, support and help implement the partnership's restoration efforts. The legislature further intends that the partnership will:

(a) Define a strategic action agenda prioritizing necessary actions, both basin-wide and within specific areas, and creating an approach that addresses all of the complex connections among the land, water, web of species, and human needs. The action agenda will be based on science and include clear, measurable goals for the recovery of Puget Sound by 2020;

(b) Determine accountability for performance, oversee the efficiency and effectiveness of money spent, educate and engage the public, and track and report results to the legislature, the governor, and the public;

(c) Not have regulatory authority, nor authority to transfer the responsibility for, or implementation of, any state regulatory program, unless otherwise specifically authorized by the legislature.

(3) It is the goal of the state that the health of Puget Sound be restored by 2020.

Sec. 2. RCW 90.71.010 and 1996 c 138 s 2 are each amended to read as follows:

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

(1) ((~~"Action team" means the Puget Sound water quality action team.~~

~~(2) "Chair" means the chair of the action team.~~

~~(3) "Council" means the Puget Sound council created in RCW 90.71.030.~~

~~(4) "Puget Sound management plan" means the 1994 Puget Sound water quality management plan as it exists June 30, 1996, and as subsequently amended by the action team.~~

~~(5) "Support staff" means the staff to the action team.~~

~~(6) "Work plan" means the work plan and budget developed by the action team.~~)) "Action agenda" means the comprehensive schedule of projects, programs, and other activities designed to achieve a healthy Puget Sound ecosystem that is authorized and further described in sections 12 and 13 of this act.

(2) "Action area" means the geographic areas delineated as provided in section 8 of this act.

(3) "Benchmarks" means measurable interim milestones or achievements established to demonstrate progress towards a goal, objective, or outcome.

(4) "Board" means the ecosystem coordination board.

(5) "Council" means the leadership council.

(6) "Environmental indicator" means a physical, biological, or chemical measurement, statistic, or value that provides a proximate gauge, or evidence of, the state or condition of Puget Sound.

(7) "Implementation strategies" means the strategies incorporated on a biennial basis in the action agenda developed under section 13 of this act.

(8) "Nearshore" means the area beginning at the crest of coastal bluffs and extending seaward through the marine photics zone, and to the head of tide in coastal rivers and streams. "Nearshore" also means both shoreline and estuaries.

(9) "Panel" means the Puget Sound science panel.

(10) "Partnership" means the Puget Sound partnership.

(11) "Puget Sound" means Puget Sound and related inland marine waters, including all salt waters of the state of Washington inside the international boundary line between Washington and British Columbia, and lying east of the junction of the Pacific Ocean and the Strait of Juan de Fuca, and the rivers and streams draining to Puget Sound as mapped by water resource inventory areas 1 through 19 in WAC 173-500-040 as it exists on the effective date of this section.

(12) "Puget Sound partner" means an entity that has been recognized by the partnership, as provided in section 16 of this act, as having consistently achieved outstanding progress in implementing the 2020 action agenda.

(13) "Watershed groups" means all groups sponsoring or administering watershed programs, including but not limited to local governments, private sector entities, watershed planning units, watershed councils, shellfish protection areas, regional fishery enhancement groups, marine resource committees including those working with the northwest straits commission, nearshore groups, and watershed lead entities.

(14) "Watershed programs" means and includes all watershed-level plans, programs, projects, and activities that relate to or may contribute to the protection or restoration of Puget Sound waters. Such programs include jurisdiction-wide programs regardless of whether more than one watershed is addressed.

NEW SECTION. **Sec. 3.** PUGET SOUND PARTNERSHIP--AGENCY CREATED. An agency of state government, to be known as the Puget Sound partnership, is created to oversee the restoration of the environmental health of Puget Sound by 2020. The agency shall consist of a leadership council, an executive director, an ecosystem coordination board, and a Puget Sound science panel.

NEW SECTION. **Sec. 4.** LEADERSHIP COUNCIL--STRUCTURE---PROCEDURES. (1) The partnership shall be led by a leadership council composed of seven members appointed by the governor, with the advice and consent of the senate. The governor shall appoint members who are publicly respected and influential, are interested in the environmental and economic prosperity of Puget Sound, and have demonstrated leadership qualities. The governor shall designate one of the seven members to serve as chair and a vice-chair shall be selected annually by the membership of the council.

(2) The initial members shall be appointed as follows:

(a) Three of the initial members shall be appointed for a term of two years;

(b) Two of the initial members shall be appointed for a term of three years; and

(c) Two of the initial members shall be appointed for a term of four years.

(3) The initial members' successors shall be appointed for terms of four years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he or she succeeds.

(4) Members of the council are eligible for reappointment.

(5) Any member of the council may be removed by the governor for cause.

(6) Members whose terms expire shall continue to serve until reappointed or replaced by a new member.

(7) A majority of the council constitutes a quorum for the transaction of business.

(8) Council decisions and actions require majority vote approval of all council members.

NEW SECTION. **Sec. 5.** LEADERSHIP COUNCIL--POWERS AND DUTIES. (1) The leadership council shall have the power and duty to:

(a) Provide leadership and have responsibility for the functions of the partnership, including adopting, revising, and guiding the implementation of the action agenda, allocating funds for Puget Sound recovery, providing progress and other reports, setting strategic priorities and benchmarks, adopting and applying accountability measures, and making appointments to the board and panel;

(b) Adopt rules, in accordance with chapter 34.05 RCW;

(c) Create subcommittees and advisory committees as appropriate to assist the council;

(d) Enter into, amend, and terminate contracts with individuals, corporations, or research institutions to effectuate the purposes of this chapter;

(e) Make grants to governmental and nongovernmental entities to effectuate the purposes of this chapter;

(f) Receive such gifts, grants, and endowments, in trust or otherwise, for the use and benefit of the partnership to effectuate the purposes of this chapter;

(g) Promote extensive public awareness, education, and participation in Puget Sound protection and recovery;

(h) Work collaboratively with the Hood Canal coordinating council established in chapter 90.88 RCW on Hood Canal-specific issues;

(i) Maintain complete and consolidated financial information to ensure that all funds received and expended to implement the action agenda have been accounted for; and

(j) Such other powers and duties as are necessary and appropriate to carry out the provisions of this chapter.

(2) The council may delegate functions to the chair and to the executive director, however the council may not delegate its decisional authority regarding developing or amending the action agenda.

(3) The council shall work closely with existing organizations and all levels of government to ensure that the action agenda and its implementation are scientifically sound, efficient, and achieve necessary results to accomplish recovery of Puget Sound to health by 2020.

(4) The council shall support, engage, and foster collaboration among watershed groups to assist in the recovery of Puget Sound.

(5) When working with federally recognized Indian tribes to develop and implement the action agenda, the council shall conform to the procedures and standards required in a government-to-governmental relationship with tribes under the 1989 Centennial Accord between the state of Washington and the sovereign tribal governments in the state of Washington.

(6) Members of the council shall be compensated in accordance with RCW 43.03.220 and be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 6.** EXECUTIVE DIRECTOR--POWERS AND DUTIES. (1) The partnership shall be administered by an executive director who serves as a communication link between all levels of government, the private sector, tribes, nongovernmental organizations, the council, the board, and the panel. The executive director shall be accountable to the council and the governor for effective communication, actions, and results.

(2) The executive director shall be appointed by and serve at the pleasure of the governor, in consultation with the council. The governor shall consider the recommendations of the council when appointing the executive director.

(3) The executive director shall have complete charge of and supervisory powers over the partnership, subject to the guidance from the council.

(4) The executive director shall employ a staff, who shall be state employees under Title 41 RCW.

(5) Upon approval of the council, the executive director may take action to create a private nonprofit entity, which may take the form of a nonprofit corporation, to assist the partnership in restoring Puget Sound by:

(a) Raising money and other resources through charitable giving, donations, and other appropriate mechanisms;

(b) Engaging and educating the public regarding Puget Sound's health, including efforts and opportunities to restore Puget Sound ecosystems; and

(c) Performing other similar activities as directed by the partnership.

NEW SECTION. **Sec. 7.** ECOSYSTEM COORDINATION BOARD. (1) The council shall convene the ecosystem coordination board not later than October 1, 2007.

(2) The board shall consist of the following:

(a) One representative from the geographic area of each of the action areas specified in section 8 of this act, appointed by

the council. The council shall solicit nominations from, at a minimum, counties, cities, and watershed groups;

(b) Two members representing general business interests, one of whom shall represent in-state general small business interests, both appointed by the council;

(c) Two members representing environmental interests, appointed by the council;

(d) Three representatives of tribal governments located in Puget Sound, invited by the governor to participate as members of the board;

(e) One representative each from counties, cities, and port districts, appointed by the council from nominations submitted by statewide associations representing such local governments;

(f) Three representatives of state agencies with environmental management responsibilities in Puget Sound, representing the interests of all state agencies, one of whom shall be the commissioner of public lands or his or her designee; and

(g) Three representatives of federal agencies with environmental management responsibilities in Puget Sound, representing the interests of all federal agencies and invited by the governor to participate as members of the board.

(3) The president of the senate shall appoint two senators, one from each major caucus, as legislative liaisons to the board. The speaker of the house of representatives shall appoint two representatives, one from each major caucus, as legislative liaisons to the board.

(4) The board shall elect one of its members as chair, and one of its members as vice-chair.

(5) The board shall advise and assist the council in carrying out its responsibilities in implementing this chapter, including development and implementation of the action agenda. The board's duties include:

(a) Assisting cities, counties, ports, tribes, watershed groups, and other governmental and private organizations in the compilation of local programs for consideration for inclusion in the action agenda as provided in section 8 of this act;

(b) Upon request of the council, reviewing and making recommendations regarding activities, projects, and programs proposed for inclusion in the action agenda, including assessing existing ecosystem scale management, restoration and protection plan elements, activities, projects, and programs for inclusion in the action agenda;

(c) Seeking public and private funding and the commitment of other resources for plan implementation;

(d) Assisting the council in conducting public education activities regarding threats to Puget Sound and about local implementation strategies to support the action agenda; and

(e) Recruiting the active involvement of and encouraging the collaboration and communication among governmental and nongovernmental entities, the private sector, and citizens working to achieve the recovery of Puget Sound.

(6) Members of the board, except for federal and state employees, shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. **Sec. 8.** INTEGRATING WATERSHED PROGRAMS AND ECOSYSTEM SCALE PLANS INTO THE ACTION AGENDA. (1) The partnership shall develop the action agenda in part upon the foundation of existing watershed programs that address or contribute to the health of Puget Sound. To ensure full consideration of these watershed programs in a timely manner to meet the required date for adoption of the action agenda, the partnership shall rely largely upon local watershed groups, tribes, cities, counties, special purpose districts, and the private sector, who are engaged in developing and implementing these programs.

(2) The partnership shall organize this work by working with these groups in the following geographic action areas of Puget Sound, which collectively encompass all of the Puget Sound basin and include the areas draining to the marine waters in these action areas:

(a) Strait of Juan de Fuca;
(b) The San Juan Islands;
(c) Whidbey Island;
(d) North central Puget Sound;
(e) South central Puget Sound;
(f) South Puget Sound; and
(g) Hood Canal.

(3) The council shall define the geographic delineations of these action areas based upon the common issues and interests of the entities in these action areas, and upon the characteristics of the Sound's physical structure, and the water flows into and within the Sound.

(4) The executive director, working with the board representatives from each action area, shall invite appropriate tribes, local governments, and watershed groups to convene for the purpose of compiling the existing watershed programs relating or contributing to the health of Puget Sound. The participating groups should work to identify the applicable local plan elements, projects, and programs, together with estimated budget, timelines, and proposed funding sources, that are suitable for adoption into the action agenda. This may include a prioritization among plan elements, projects, and programs.

(5) The partnership may provide assistance to watershed groups in those action areas that are developing and implementing programs included within the action agenda, and to improve coordination among the groups to improve and accelerate the implementation of the action agenda.

(6) The executive director, working with the board, shall also compile and assess ecosystem scale management, restoration, and protection plans for the Puget Sound basin.

(a) At a minimum, the compilation shall include the Puget Sound nearshore estuary project, clean-up plans for contaminated aquatic lands and shorelands, aquatic land management plans, state resource management plans, habitat conservation plans, and recovery plans for salmon, orca, and other species in Puget Sound that are listed under the federal endangered species act.

(b) The board should work to identify and assess applicable ecosystem scale plan elements, projects, and programs, together with estimated budget, timelines, and proposed funding sources, that are suitable for adoption into the action agenda.

(c) When the board identifies conflicts or disputes among ecosystem scale projects or programs, the board may convene the agency managers in an attempt to reconcile the conflicts with the objective of advancing the protection and recovery of Puget Sound.

(d) If it determines that doing so will increase the likelihood of restoring Puget Sound by 2020, the partnership may explore the utility of federal assurances under the endangered species act, 16 U.S.C. Sec. 1531 et seq., and shall confer with the federal services administering that act.

(7) The executive director shall integrate and present the proposed elements from watershed programs and ecosystem-level plans to the council for consideration for inclusion in the action agenda not later than July 1, 2008.

NEW SECTION. **Sec. 9.** SCIENCE PANEL--CREATED. (1) The council shall appoint a nine-member Puget Sound science panel to provide independent, nonrepresentational scientific advice to the council and expertise in identifying environmental indicators and benchmarks for incorporation into the action agenda.

(2) In establishing the panel, the council shall request the Washington academy of sciences, created in chapter 70.220 RCW, to nominate fifteen scientists with recognized expertise in fields of science essential to the recovery of Puget Sound. Nominees should reflect the full range of scientific and engineering disciplines involved in Puget Sound recovery. At a minimum, the Washington academy of sciences shall consider making nominations from scientists associated with federal, state, and local agencies, tribes, the business and environmental communities, members of the K-12, college, and university

communities, and members of the board. The solicitation should be to all sectors, and candidates may be from all public and private sectors. Persons nominated by the Washington academy of sciences must disclose any potential conflicts of interest, and any financial relationship with any leadership council member, and disclose sources of current financial support and contracts relating to Puget Sound recovery.

(3) The panel shall select a chair and a vice-chair. Panel members shall serve four-year terms, except that the council shall determine initial terms of two, three, and four years to provide for staggered terms. The council shall determine reappointments and select replacements or additional members of the panel. No panel member may serve longer than twelve years.

(4) The executive director shall designate a lead staff scientist to coordinate panel actions, and administrative staff to support panel activities. The legislature intends to provide ongoing funding for staffing of the panel to ensure that it has sufficient capacity to provide independent scientific advice.

(5) The executive director of the partnership and the science panel shall explore a shared state and federal responsibility for the staffing and administration of the panel. In the event that a federally sponsored Puget Sound recovery office is created, the council may propose that such office provide for staffing and administration of the panel.

(6) The panel shall assist the council in developing and revising the action agenda, making recommendations to the action agenda, and making recommendations to the council for updates or revisions.

(7) Members of the panel shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060, and based upon the availability of funds, the council may contract with members of the panel for compensation for their services under chapter 39.29 RCW. If appointees to the panel are employed by the federal, state, tribal, or local governments, the council may enter into interagency personnel agreements.

NEW SECTION. **Sec. 10.** SCIENCE PANEL--FUNCTIONS AND DUTIES. (1) The panel shall:

(a) Assist the council, board, and executive director in carrying out the obligations of the partnership, including preparing and updating the action agenda;

(b) As provided in section 11 of this act, assist the partnership in developing an ecosystem level strategic science program that:

(i) Addresses monitoring, modeling, data management, and research; and

(ii) Identifies science gaps and recommends research priorities;

(c) Develop and provide oversight of a competitive peer-reviewed process for soliciting, strategically prioritizing, and funding research and modeling projects;

(d) Provide input to the executive director in developing biennial implementation strategies; and

(e) Offer an ecosystem-wide perspective on the science work being conducted in Puget Sound and by the partnership.

(2) The panel should collaborate with other scientific groups and consult other scientists in conducting its work. To the maximum extent possible, the panel should seek to integrate the state-sponsored Puget Sound science program with the Puget Sound science activities of federal agencies, including working toward an integrated research agenda and Puget Sound science work plan.

(3) By July 31, 2008, the panel shall identify environmental indicators measuring the health of Puget Sound, and recommend environmental benchmarks that need to be achieved to meet the goals of the action agenda. The council shall confer with the panel on incorporating the indicators and benchmarks into the action agenda.

NEW SECTION. **Sec. 11.** SCIENCE PANEL--PROGRAMS, UPDATES, AND WORK PLANS. (1) The strategic science program shall be developed by the panel with assistance and staff support provided by the executive director. The science program may include:

(a) Continuation of the Puget Sound assessment and monitoring program, as provided in RCW 90.71.060, as well as other monitoring or modeling programs deemed appropriate by the executive director;

(b) Development of a monitoring program, in addition to the provisions of RCW 90.71.060, including baselines, protocols, guidelines, and quantifiable performance measures, to be recommended as an element of the action agenda;

(c) Recommendations regarding data collection and management to facilitate easy access and use of data by all participating agencies and the public; and

(d) A list of critical research needs.

(2) The strategic science program may not become an official document until a majority of the members of the council votes for its adoption.

(3) A Puget Sound science update shall be developed by the panel with assistance and staff support provided by the executive director. The panel shall submit the initial update to the executive director by April 2010, and subsequent updates as necessary to reflect new scientific understandings. The update shall:

(a) Describe the current scientific understanding of various physical attributes of Puget Sound;

(b) Serve as the scientific basis for the selection of environmental indicators measuring the health of Puget Sound; and

(c) Serve as the scientific basis for the status and trends of those environmental indicators.

(4) The executive director shall provide the Puget Sound science update to the Washington academy of sciences, the governor, and appropriate legislative committees, and include:

(a) A summary of information in existing updates; and

(b) Changes adopted in subsequent updates and in the state of the Sound reports produced pursuant to section 19 of this act.

(5) A biennial science work plan shall be developed by the panel, with assistance and staff support provided by the executive director, and approved by the council. The biennial science work plan shall include, at a minimum:

(a) Identification of recommendations from scientific and technical reports relating to Puget Sound;

(b) A description of the Puget Sound science-related activities being conducted by various entities in the region, including studies, models, monitoring, research, and other appropriate activities;

(c) A description of whether the ongoing work addresses the recommendations and, if not, identification of necessary actions to fill gaps;

(d) Identification of specific biennial science work actions to be done over the course of the work plan, and how these actions address science needs in Puget Sound; and

(e) Recommendations for improvements to the ongoing science work in Puget Sound.

NEW SECTION. **Sec. 12.** ACTION AGENDA--GOALS AND OBJECTIVES. (1) The action agenda shall consist of the goals and objectives in this section, implementation strategies to meet measurable outcomes, benchmarks, and identification of responsible entities. By 2020, the action agenda shall strive to achieve the following goals:

(a) A healthy human population supported by a healthy Puget Sound that is not threatened by changes in the ecosystem;

(b) A quality of human life that is sustained by a functioning Puget Sound ecosystem;

(c) Healthy and sustaining populations of native species in Puget Sound, including a robust food web;

(d) A healthy Puget Sound where freshwater, estuary, near shore, marine, and upland habitats are protected, restored, and sustained;

(e) An ecosystem that is supported by ground water levels as well as river and stream flow levels sufficient to sustain people, fish, and wildlife, and the natural functions of the environment;

(f) Fresh and marine waters and sediments of a sufficient quality so that the waters in the region are safe for drinking, swimming, shellfish harvest and consumption, and other human uses and enjoyment, and are not harmful to the native marine mammals, fish, birds, and shellfish of the region.

(2) The action agenda shall be developed and implemented to achieve the following objectives:

(a) Protect existing habitat and prevent further losses;

(b) Restore habitat functions and values;

(c) Significantly reduce toxics entering Puget Sound fresh and marine waters;

(d) Significantly reduce nutrients and pathogens entering Puget Sound fresh and marine waters;

(e) Improve water quality and habitat by managing storm water runoff;

(f) Provide water for people, fish and wildlife, and the environment;

(g) Protect ecosystem biodiversity and recover imperiled species; and

(h) Build and sustain the capacity for action.

NEW SECTION. **Sec. 13.** ACTION AGENDA--DEVELOPMENT AND ELEMENTS. (1) The council shall develop a science-based action agenda that leads to the recovery of Puget Sound by 2020 and achievement of the goals and objectives established in section 12 of this act. The action agenda shall:

(a) Address all geographic areas of Puget Sound including upland areas and tributary rivers and streams that affect Puget Sound;

(b) Describe the problems affecting Puget Sound's health using supporting scientific data, and provide a summary of the historical environmental health conditions of Puget Sound so as to determine past levels of pollution and restorative actions that have established the current health conditions of Puget Sound;

(c) Meet the goals and objectives described in section 12 of this act, including measurable outcomes for each goal and objective specifically describing what will be achieved, how it will be quantified, and how progress towards outcomes will be measured. The action agenda shall include near-term and long-term benchmarks designed to ensure continuous progress needed to reach the goals, objectives, and designated outcomes by 2020. The council shall consult with the panel in developing these elements of the plan;

(d) Identify and prioritize the strategies and actions necessary to restore and protect Puget Sound and to achieve the goals and objectives described in section 12 of this act;

(e) Identify the agency, entity, or person responsible for completing the necessary strategies and actions, and potential sources of funding;

(f) Include prioritized actions identified through the assembled proposals from each of the seven action areas and the identification and assessment of ecosystem scale programs as provided in section 8 of this act;

(g) Include specific actions to address aquatic rehabilitation zone one, as defined in RCW 90.88.010;

(h) Incorporate any additional goals adopted by the council; and

(i) Incorporate appropriate actions to carry out the biennial science work plan created in section 11 of this act.

(2) In developing the action agenda and any subsequent revisions, the council shall, when appropriate, incorporate the following:

(a) Water quality, water quantity, sediment quality, watershed, marine resource, and habitat restoration plans created by governmental agencies, watershed groups, and marine and shoreline groups. The council shall consult with the board in incorporating these plans;

(b) Recovery plans for salmon, orca, and other species in Puget Sound listed under the federal endangered species act;

(c) Existing plans and agreements signed by the governor, the commissioner of public lands, other state officials, or by federal agencies;

(d) Appropriate portions of the Puget Sound water quality management plan existing on the effective date of this section.

(3) Until the action agenda is adopted, the existing Puget Sound management plan and the 2007-09 Puget Sound biennial plan shall remain in effect. The existing Puget Sound management plan shall also continue to serve as the comprehensive conservation and management plan for the purposes of the national estuary program described in section 320 of the federal clean water act, until replaced by the action agenda and approved by the United States environmental protection agency as the new comprehensive conservation and management plan.

(4) The council shall adopt the action agenda by September 1, 2008. The council shall revise the action agenda as needed, and revise the implementation strategies every two years using an adaptive management process informed by tracking actions and monitoring results in Puget Sound. In revising the action agenda and the implementation strategies, the council shall consult the panel and the board and provide opportunity for public review and comment. Biennial updates shall:

(a) Contain a detailed description of prioritized actions necessary in the biennium to achieve the goals, objectives, outcomes, and benchmarks of progress identified in the action agenda;

(b) Identify the agency, entity, or person responsible for completing the necessary action; and

(c) Establish biennial benchmarks for near-term actions.

(5) The action agenda shall be organized and maintained in a single document to facilitate public accessibility to the plan.

NEW SECTION. **Sec. 14.** DEVELOPMENT OF BIENNIAL BUDGET REQUESTS.(1) State agencies responsible for implementing elements of the action agenda shall:

(a) Provide to the partnership by June 1st of each even-numbered year their estimates of the actions and the budget resources needed for the forthcoming biennium to implement their portion of the action agenda; and

(b) Work with the partnership in the development of biennial budget requests to achieve consistency with the action agenda to be submitted to the governor for consideration in the governor's biennial budget request. The agencies shall seek the concurrence of the partnership in the proposed funding levels and sources included in this proposed budget.

(2) If a state agency submits an amount different from that developed in subsection (1)(a) of this section as part of its biennial budget request, the partnership and state agency shall jointly identify the differences and the reasons for these differences and present this information to the office of financial management by October 1st of each even-numbered year.

NEW SECTION. **Sec. 15.** FUNDING FROM PARTNERSHIP--ACCOUNTABILITY. (1) Any funding made available directly to the partnership from the Puget Sound recovery account created in section 23 of this act and used by the partnership for loans, grants, or funding transfers to other entities shall be prioritized according to the action agenda developed pursuant to section 13 of this act.

(2) The partnership shall condition, with interagency agreements, any grants or funding transfers to other entities from the Puget Sound recovery account to ensure accountability in the expenditure of the funds and to ensure that the funds are used by the recipient entity in the manner determined by the partnership to be the most consistent with the priorities of the action agenda. Any conditions placed on federal funding under this section shall incorporate and be consistent with requirements under signed agreements between the entity and the federal government.

(3) If the partnership finds that the provided funding was not used as instructed in the interagency agreement, the partnership may suspend or further condition future funding to the recipient entity.

(4) The partnership shall require any entity that receives funds for implementing the action agenda to publicly disclose and account for expenditure of those funds.

NEW SECTION. **Sec. 16.** IMPLEMENTATION--FISCAL ACCOUNTABILITY. (1) The legislature intends that fiscal incentives and disincentives be used as accountability measures designed to achieve consistency with the action agenda by:

(a) Ensuring that projects and activities in conflict with the action agenda are not funded;

(b) Aligning environmental investments with strategic priorities of the action agenda; and

(c) Using state grant and loan programs to encourage consistency with the action agenda.

(2) The council shall adopt measures to ensure that funds appropriated for implementation of the action agenda and identified by proviso or specifically referenced in the omnibus appropriations act pursuant to RCW 43.88.030(1)(g) are expended in a manner that will achieve the intended results. In developing such performance measures, the council shall establish criteria for the expenditure of the funds consistent with the responsibilities and timelines under the action agenda, and require reporting and tracking of funds expended. The council may adopt other measures, such as requiring interagency agreements regarding the expenditure of provisoed or specifically referenced Puget Sound funds.

(3) The partnership shall work with other state agencies providing grant and loan funds or other financial assistance for projects and activities that impact the health of the Puget Sound ecosystem under chapters 43.155, 70.105D, 70.146, 77.85, 79.105, 79A.15, 89.08, and 90.50A RCW to, within the authorities of the programs, develop consistent funding criteria that prohibits funding projects and activities that are in conflict with the action agenda.

(4) The partnership shall develop a process and criteria by which entities that consistently achieve outstanding progress in implementing the action agenda are designated as Puget Sound partners. State agencies shall work with the partnership to revise their grant, loan, or other financial assistance allocation criteria to create a preference for entities designated as Puget Sound partners for funds allocated to the Puget Sound basin, pursuant to RCW 43.155.070, 70.105D.070, 70.146.070, 77.85.130, 79.105.150, 79A.15.040, 89.08.520, and 90.50A.040. This process shall be developed on a timeline that takes into consideration state grant and loan funding cycles.

(5) Any entity that receives state funds to implement actions required in the action agenda shall report biennially to the council on progress in completing the action and whether expected results have been achieved within the time frames specified in the action agenda.

NEW SECTION. **Sec. 17.** ACCOUNTABILITY FOR IMPLEMENTATION. (1) The council is accountable for achieving the action agenda. The legislature intends that all governmental entities within Puget Sound will exercise their existing authorities to implement the applicable provisions of the action agenda.

(2) The partnership shall involve the public and implementing entities to develop standards and processes by which the partnership will determine whether implementing entities are taking actions consistent with the action agenda and achieving the outcomes identified in the action agenda. Among these measures, the council may hold management conferences with implementing entities to review and assess performance in undertaking implementation strategies with a particular focus on compliance with and enforcement of existing laws. Where the council identifies an inconsistency with the action agenda, the council shall offer support and assistance to the entity with the objective of remedying the inconsistency. The results of the conferences shall be included in the state of the Sound report required under section 19 of this act.

(3) In the event the council determines that an entity is in substantial noncompliance with the action agenda, it shall provide notice of this finding and supporting information to the entity. The council or executive director shall thereafter meet and confer with the entity to discuss the finding and, if appropriate, develop a corrective action plan. If no agreement is reached, the council shall hold a public meeting to present its findings and the proposed corrective action plan. If the entity is a state agency, the meeting shall include representatives of the governor's office and office of financial management. If the entity is a local government, the meeting shall be held in the jurisdiction and electoral representatives from the jurisdictions shall be invited to attend. If, after this process, the council finds that substantial noncompliance continues, the council shall issue written findings and document its conclusions. The council may recommend to the governor that the entity be ineligible for state financial assistance until the substantial noncompliance is remedied. Instances of noncompliance shall be included in the state of the Sound report required under section 19 of this act.

(4) The council shall provide a forum for addressing and resolving problems, conflicts, or a substantial lack of progress in a specific area that it has identified in the implementation of the action agenda, or that citizens or implementing entities bring to the council. The council may use conflict resolution mechanisms such as but not limited to, technical and financial assistance, facilitated discussions, and mediation to resolve the conflict. Where the parties and the council are unable to resolve the conflict, and the conflict significantly impairs the implementation of the action agenda, the council shall provide its analysis of the conflict and recommendations resolution to the governor, the legislature, and to those entities with jurisdictional authority to resolve the conflict.

(5) When the council or an implementing entity identifies a statute, rule, ordinance or policy that conflicts with or is an impediment to the implementation of the action agenda, or identifies a deficiency in existing statutory authority to accomplish an element of the action agenda, the council shall review the matter with the implementing entities involved. The council shall evaluate the merits of the conflict, impediment, or deficiency, and make recommendations to the legislature, governor, agency, local government or other appropriate entity for addressing and resolving the conflict.

(6) The council may make recommendations to the governor and appropriate committees of the senate and house of representatives for local or state administrative or legislative actions to address barriers it has identified to successfully implementing the action agenda.

NEW SECTION. **Sec. 18.** LIMITATIONS ON AUTHORITY. (1) The partnership shall not have regulatory authority nor authority to transfer the responsibility for, or implementation of, any state regulatory program, unless otherwise specifically authorized by the legislature.

(2) The action agenda may not create a legally enforceable duty to review or approve permits, or to adopt plans or regulations. The action agenda may not authorize the adoption of rules under chapter 34.05 RCW creating a legally enforceable duty applicable to the review or approval of permits or to the adoption of plans or regulations. No action of the partnership may alter the forest practices rules adopted pursuant to chapter 76.09 RCW, or any associated habitat conservation plan. Any changes in forest practices identified by the processes established in this chapter as necessary to fully recover the health of Puget Sound by 2020 may only be realized through the processes established in RCW 76.09.370 and other designated processes established in Title 76 RCW. Nothing in this subsection or subsection (1) of this section limits the accountability provisions of this chapter.

(3) Nothing in this chapter limits or alters the existing legal authority of local governments, nor does it create a legally

enforceable duty upon local governments. When a local government proposes to take an action inconsistent with the action agenda, it shall inform the council and identify the reasons for taking the action. If a local government chooses to take an action inconsistent with the action agenda or chooses not to take action required by the action agenda, it will be subject to the accountability measures in this chapter which can be used at the discretion of the council.

NEW SECTION. **Sec. 19.** REPORTS. (1) By September 1st of each even-numbered year beginning in 2008, the council shall provide to the governor and the appropriate fiscal committees of the senate and house of representatives its recommendations for the funding necessary to implement the action agenda in the succeeding biennium. The recommendations shall:

(a) Identify the funding needed by action agenda element;

(b) Address funding responsibilities among local, state, and federal governments, as well as nongovernmental funding; and

(c) Address funding needed to support the work of the partnership, the panel, the ecosystem work group, and entities assisting in coordinating local efforts to implement the plan.

(2) In the 2008 report required under subsection (1) of this section, the council shall include recommendations for projected funding needed through 2020 to implement the action agenda; funding needs for science panel staff; identify methods to secure stable and sufficient funding to meet these needs; and include proposals for new sources of funding to be dedicated to Puget Sound protection and recovery. In preparing the science panel staffing proposal, the council shall consult with the panel.

(3) By November 1st of each odd-numbered year beginning in 2009, the council shall produce a state of the Sound report that includes, at a minimum:

(a) An assessment of progress by state and nonstate entities in implementing the action agenda, including accomplishments in the use of state funds for action agenda implementation;

(b) A description of actions by implementing entities that are inconsistent with the action agenda and steps taken to remedy the inconsistency;

(c) The comments by the panel on progress in implementing the plan, as well as findings arising from the assessment and monitoring program;

(d) A review of citizen concerns provided to the partnership and the disposition of those concerns;

(e) A review of the expenditures of funds to state agencies for the implementation of programs affecting the protection and recovery of Puget Sound, and an assessment of whether the use of the funds is consistent with the action agenda; and

(f) An identification of all funds provided to the partnership, and recommendations as to how future state expenditures for all entities, including the partnership, could better match the priorities of the action agenda.

(4)(a) The council shall review state programs that fund facilities and activities that may contribute to action agenda implementation. By November 1, 2009, the council shall provide initial recommendations regarding program changes to the governor and appropriate fiscal and policy committees of the senate and house of representatives. By November 1, 2010, the council shall provide final recommendations regarding program changes, including proposed legislation to implement the recommendation, to the governor and appropriate fiscal and policy committees of the senate and house of representatives.

(b) The review in this subsection shall be conducted with the active assistance and collaboration of the agencies administering these programs, and in consultation with local governments and other entities receiving funding from these programs:

(i) The water quality account, chapter 70.146 RCW;

(ii) The water pollution control revolving fund, chapter 90.50A RCW;

(iii) The public works assistance account, chapter 43.155 RCW;

(iv) The aquatic lands enhancement account, RCW 79.105.150;

(v) The state toxics control account and local toxics control account and clean-up program, chapter 70.105D RCW;

(vi) The acquisition of habitat conservation and outdoor recreation land, chapter 79A.15 RCW;

(vii) The salmon recovery funding board, RCW 77.85.110 through 77.85.150;

(viii) The community economic revitalization board, chapter 43.160 RCW;

(ix) Other state financial assistance to water quality-related projects and activities; and

(x) Water quality financial assistance from federal programs administered through state programs or provided directly to local governments in the Puget Sound basin.

(c) The council's review shall include but not be limited to:

(i) Determining the level of funding and types of projects and activities funded through the programs that contribute to implementation of the action agenda;

(ii) Evaluating the procedures and criteria in each program for determining which projects and activities to fund, and their relationship to the goals and priorities of the action agenda;

(iii) Assessing methods for ensuring that the goals and priorities of the action agenda are given priority when program funding decisions are made regarding water quality-related projects and activities in the Puget Sound basin and habitat-related projects and activities in the Puget Sound basin;

(iv) Modifying funding criteria so that projects, programs, and activities that are inconsistent with the action agenda are ineligible for funding;

(v) Assessing ways to incorporate a strategic funding approach for the action agenda within the outcome-focused performance measures required by RCW 43.41.270 in administering natural resource-related and environmentally based grant and loan programs.

NEW SECTION. **Sec. 20.** BASIN-WIDE RESTORATION PROGRESS. By December 1, 2010, and subject to available funding, the Washington academy of sciences shall conduct an assessment of basin-wide restoration progress. The assessment shall include, but not be limited to, a determination of the extent to which implementation of the action agenda is making progress toward the action agenda goals, and a determination of whether the environmental indicators and benchmarks included in the action agenda accurately measure and reflect progress toward the action agenda goals.

NEW SECTION. **Sec. 21.** PERFORMANCE AUDIT. (1) The joint legislative audit and review committee shall conduct two performance audits of the partnership, with the first audit to be completed by December 1, 2011, and the second to be completed by December 1, 2016.

(2) The audit shall include but not be limited to:

(a) A determination of the extent to which funds expended by the partnership or provided in biennial budget acts expressly for implementing the action agenda have contributed toward meeting the scientific benchmarks and the recovery goals of the action agenda;

(b) A determination of the efficiency and effectiveness of the partnership's oversight of action agenda implementation, based upon the achievement of the objectives as measured by the established environmental indicators and benchmarks; and

(c) Any recommendations for improvements in the partnership's performance and structure, and to provide accountability for action agenda results by action entities.

(3) The partnership may use the audits as the basis for developing changes to the action agenda, and may submit any recommendations requiring legislative policy or budgetary action to the governor and to the appropriate committees of the senate and house of representatives.

Sec. 22. RCW 90.71.060 and 1996 c 138 s 7 are each amended to read as follows:

In addition to other powers and duties specified in this chapter, the ((~~action team shall ensure~~)) panel, with the approval of the council, shall guide the implementation and coordination of ((~~the~~)) a Puget Sound ((~~ambient~~)) assessment and monitoring program ((~~established in the Puget Sound management plan. The program shall include, at a minimum:~~

~~(1) A research program, including but not limited to methods to provide current research information to managers and scientists, and to establish priorities based on the needs of the action team;~~

~~(2) A monitoring program, including baselines, protocols, guidelines, and quantifiable performance measures. In consultation with state agencies, local and tribal governments, and other public and private interests, the action team shall develop and track quantifiable performance measures that can be used by the governor and the legislature to assess the effectiveness over time of programs and actions initiated under the plan to improve and protect Puget Sound water quality and biological resources. The performance measures shall be developed by June 30, 1997. The performance measures shall include, but not be limited to a methodology to track the progress of: Fish and wildlife habitat; sites with sediment contamination; wetlands; shellfish beds; and other key indicators of Puget Sound health. State agencies shall assist the action team in the development and tracking of these performance measures. The performance measures may be limited to a selected geographic area~~)).

NEW SECTION. **Sec. 23.** PUGET SOUND RECOVERY ACCOUNT. The Puget Sound recovery account is created in the state treasury. To the account shall be deposited such funds as the legislature directs or appropriates to the account. Federal grants, gifts, or other financial assistance received by the Puget Sound partnership and other state agencies from nonstate sources for the specific purpose of recovering Puget Sound may be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the protection and recovery of Puget Sound.

Sec. 24. RCW 43.155.070 and 2001 c 131 s 5 are each amended to read as follows:

(1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 must have adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a loan or loan guarantee under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a loan or loan guarantee under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a loan or loan guarantee.

(3) In considering awarding loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Except as otherwise conditioned by section 25 of this act, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act;

(d) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

((~~(c)~~)) (e) The cost of the project compared to the size of the local government and amount of loan money available;

((~~(d)~~)) (f) The number of communities served by or funding the project;

((~~(e)~~)) (g) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

((~~(f)~~)) (h) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

((~~(g)~~)) (i) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

((~~(h)~~)) (j) Other criteria that the board considers advisable.

(5) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) Before November 1st of each year, the board shall develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(7) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.

(8) Subsection (7) of this section does not apply to loans made under RCW 43.155.065, 43.155.068, and subsection (9) of this section.

(9) Loans made for the purpose of capital facilities plans shall be exempted from subsection (7) of this section.

(10) To qualify for loans or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

(11) After January 1, 2010, any project designed to address the effects of storm water or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. **Sec. 25.** A new section is added to chapter 43.155 RCW to read as follows:

In developing a priority process for public works projects under RCW 43.155.070, the board shall give preferences only to Puget Sound partners, as defined in RCW 90.71.010, over other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 26. RCW 70.146.070 and 1999 c 164 s 603 are each amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) Except as otherwise conditioned by section 27 of this act, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(f) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act;

(g) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

((~~(f)~~)) (h) The recommendations of the Puget Sound ((~~action team~~)) partnership created in section 3 of this act and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4) After January 1, 2010, any project designed to address the effects of water pollution on Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. **Sec. 27.** A new section is added to chapter 70.146 RCW to read as follows:

When making grants or loans for water pollution control facilities under RCW 70.146.070, the department shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 28. RCW 89.08.520 and 2001 c 227 s 3 are each amended to read as follows:

(1) In administering grant programs to improve water quality and protect habitat, the commission shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications((~~, and the commission shall utilize~~));

(b) In its grant prioritization and selection process, consider:

(i) The statement of environmental ((~~benefit[s] in its grant prioritization and selection process.~~)) benefits;

(ii) Whether, except as conditioned by section 29 of this act, the applicant is a Puget Sound partner, as defined in RCW 90.71.010; and

(iii) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act; and

(c) Not provide funding, after January 1, 2010, for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

(2)(a) The commission shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grant program.

(b) The commission shall work with the districts to develop uniform performance measures across participating districts((~~.~~)) and to the extent possible, the commission should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The commission shall consult with affected interest groups in implementing this section.

NEW SECTION. **Sec. 29.** A new section is added to chapter 89.08 RCW to read as follows:

When administering water quality and habitat protection grants under this chapter, the commission shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 30. RCW 70.105D.070 and 2005 c 488 s 926 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

(ii) The state's responsibility for solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.95 RCW;

(iii) The hazardous waste cleanup program required under this chapter;

(iv) State matching funds required under the federal cleanup law;

(v) Financial assistance for local programs in accordance with chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(vi) State government programs for the safe reduction, recycling, or disposal of hazardous wastes from households, small businesses, and agriculture;

(vii) Hazardous materials emergency response training;

(viii) Water and environmental health protection and monitoring programs;

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(e) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

(xii) Development and demonstration of alternative management technologies designed to carry out the top two hazardous waste management priorities of RCW 70.105.150.

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority:

(i) Remedial actions;

(ii) Hazardous waste plans and programs under chapter 70.105 RCW;

(iii) Solid waste plans and programs under chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

(iv) Funds for a program to assist in the assessment and cleanup of sites of methamphetamine production, but not to be used for the initial containment of such sites, consistent with the responsibilities and intent of RCW 69.50.511; and

(v) Cleanup and disposal of hazardous substances from abandoned or derelict vessels, defined for the purposes of this section as vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel, that pose a threat to human health or the environment. ((~~For purposes of this subsection (3)(a)(v), "abandoned or derelict vessels" means vessels that have little or no value and either have no identified owner or have an identified owner lacking financial resources to clean up and dispose of the vessel.~~))

(b) Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that is a Puget Sound partner, as defined in RCW 90.71.010, along with any project that is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act, shall, except as conditioned by section 31 of this act, receive priority for any available funding for any grant or funding programs or sources that use a competitive bidding process. ((~~During the 1999-2001 fiscal biennium, moneys in the account may also be used for the following activities: Conducting a study of whether dioxins occur in fertilizers, soil amendments, and soils; reviewing applications for registration of fertilizers; and conducting a study of plant uptake of metals. During the 2005-2007 fiscal biennium, the legislature may transfer from the local toxics control account to the state toxics control account such amounts as specified in the omnibus capital budget bill. During the 2005-2007 fiscal biennium, moneys in the account may also be used for grants to local governments to retrofit public sector diesel equipment and for storm water planning and implementation activities.~~

~~(b)~~)) (c) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act for public water systems. The department of health shall reimburse the account from fees assessed under RCW 70.119A.115 by June 30, 1995.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. However, during the 1999-2001 fiscal biennium, funding may not be granted to entities engaged in lobbying activities, and applicants may not be awarded grants if their cumulative grant awards under this section exceed two hundred thousand dollars. No grant may exceed sixty thousand dollars. Grants may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation, or, after January 1, 2010, for projects designed to address the restoration of Puget Sound, funded in a competitive grant process, that are in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

(7) The department shall adopt rules for grant or loan issuance and performance.

((~~(8) During the 2005-2007 fiscal biennium, the legislature may transfer from the state toxics control account to the water quality account such amounts as reflect the excess fund balance of the fund.~~))

NEW SECTION. **Sec. 31.** A new section is added to chapter 70.105D RCW to read as follows:

When administering funds under this chapter, the department shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound

partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 32. RCW 79.105.150 and 2005 c 518 s 946 and 2005 c 155 s 121 are each reenacted and amended to read as follows:

(1) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to the lands; and for volunteer cooperative fish and game projects.

(2) In providing grants for aquatic lands enhancement projects, the ((~~department~~)) interagency committee for outdoor recreation shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications((~~, and the department shall~~));

(b) Utilize the statement of environmental benefits, consideration, except as provided in section 33 of this act, of whether the applicant is a Puget Sound partner, as defined in RCW 90.71.010, and whether a project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act, in its prioritization and selection process((~~. The department shall also~~)); and

(c) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants.

(3) To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270.

(4) The department shall consult with affected interest groups in implementing this section.

((~~(3) During the fiscal biennium ending June 30, 2007, the funds may be appropriated for boating safety, settlement costs for aquatic lands cleanup, and shellfish management, enforcement, and enhancement and assistance to local governments for septic system surveys and data bases.~~)) (5) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. **Sec. 33.** A new section is added to chapter 79.105 RCW to read as follows:

When administering funds under this chapter, the interagency committee for outdoor recreation shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 34. RCW 79A.15.040 and 2005 c 303 s 3 are each amended to read as follows:

(1) Moneys appropriated for this chapter to the habitat conservation account shall be distributed in the following way:

(a) Not less than forty percent through June 30, 2011, at which time the amount shall become forty-five percent, for the acquisition and development of critical habitat;

(b) Not less than thirty percent for the acquisition and development of natural areas;

(c) Not less than twenty percent for the acquisition and development of urban wildlife habitat; and

(d) Not less than ten percent through June 30, 2011, at which time the amount shall become five percent, shall be used by the committee to fund restoration and enhancement projects on state lands. Only the department of natural resources and the department of fish and wildlife may apply for these funds to be used on existing habitat and natural area lands.

(2)(a) In distributing these funds, the committee retains discretion to meet the most pressing needs for critical habitat, natural areas, and urban wildlife habitat, and is not required to meet the percentages described in subsection (1) of this section in any one biennium.

(b) If not enough project applications are submitted in a category within the habitat conservation account to meet the percentages described in subsection (1) of this section in any biennium, the committee retains discretion to distribute any remaining funds to the other categories within the account.

(3) Only state agencies may apply for acquisition and development funds for natural areas projects under subsection (1) (b) of this section.

(4) State and local agencies may apply for acquisition and development funds for critical habitat and urban wildlife habitat projects under subsection (1)(a) and (c) of this section.

(5)(a) Any lands that have been acquired with grants under this section by the department of fish and wildlife are subject to an amount in lieu of real property taxes and an additional amount for control of noxious weeds as determined by RCW 77.12.203.

(b) Any lands that have been acquired with grants under this section by the department of natural resources are subject to payments in the amounts required under the provisions of RCW 79.70.130 and 79.71.130.

(6)(a) Except as otherwise conditioned by section 35 of this act, the committee shall consider the following in determining distribution priority:

(i) Whether the entity applying for funding is a Puget Sound partner, as defined in RCW 90.71.010; and

(ii) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act.

(7) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. **Sec. 35.** A new section is added to chapter 79A.15 RCW to read as follows:

When administering funds under this chapter, the committee shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 36. RCW 77.85.130 and 2005 c 309 s 8, 2005 c 271 s 1, and 2005 c 257 s 3 are each reenacted and amended to read as follows:

(1) The salmon recovery funding board shall develop procedures and criteria for allocation of funds for salmon habitat projects and salmon recovery activities on a statewide basis to address the highest priorities for salmon habitat protection and restoration. To the extent practicable the board shall adopt an annual allocation of funding. The allocation should address both protection and restoration of habitat, and should recognize the varying needs in each area of the state on an equitable basis. The board has the discretion to partially fund, or to fund in phases, salmon habitat projects. The board may annually

establish a maximum amount of funding available for any individual project, subject to available funding. No projects required solely as a mitigation or a condition of permitting are eligible for funding.

(2)(a) In evaluating, ranking, and awarding funds for projects and activities the board shall give preference to projects that:

(i) Are based upon the limiting factors analysis identified under RCW 77.85.060;

(ii) Provide a greater benefit to salmon recovery based upon the stock status information contained in the department of fish and wildlife salmonid stock inventory (SASSI), the salmon and steelhead habitat inventory and assessment project (SSHIAP), and any comparable science-based assessment when available;

(iii) Will benefit listed species and other fish species;

(iv) Will preserve high quality salmonid habitat; ((~~and~~))

(v) Are included in a regional or watershed-based salmon recovery plan that accords the project, action, or area a high priority for funding;

(vi) Are, except as provided in section 37 of this act, sponsored by an entity that is a Puget Sound partner, as defined in RCW 90.71.010; and

(vii) Are projects referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act.

(b) In evaluating, ranking, and awarding funds for projects and activities the board shall also give consideration to projects that:

(i) Are the most cost-effective;

(ii) Have the greatest matched or in-kind funding;

(iii) Will be implemented by a sponsor with a successful record of project implementation; ((~~and~~))

(iv) Involve members of the veterans conservation corps established in RCW 43.60A.150; and

(v) Are part of a regionwide list developed by lead entities.

(3) The board may reject, but not add, projects from a habitat project list submitted by a lead entity for funding.

(4) The board shall establish criteria for determining when block grants may be made to a lead entity. The board may provide block grants to the lead entity to implement habitat project lists developed under RCW 77.85.050, subject to available funding. The board shall determine an equitable minimum amount of project funds for each recovery region, and shall distribute the remainder of funds on a competitive basis. The board may also provide block grants to the lead entity or regional recovery organization to assist in carrying out functions described under this chapter. Block grants must be expended consistent with the priorities established for the board in subsection (2) of this section. Lead entities or regional recovery organizations receiving block grants under this subsection shall provide an annual report to the board summarizing how funds were expended for activities consistent with this chapter, including the types of projects funded, project outcomes, monitoring results, and administrative costs.

(5) The board may waive or modify portions of the allocation procedures and standards adopted under this section in the award of grants or loans to conform to legislative appropriations directing an alternative award procedure or when the funds to be awarded are from federal or other sources requiring other allocation procedures or standards as a condition of the board's receipt of the funds. The board shall develop an integrated process to manage the allocation of funding from federal and state sources to minimize delays in the award of funding while recognizing the differences in state and legislative appropriation timing.

(6) The board may award a grant or loan for a salmon recovery project on private or public land when the landowner has a legal obligation under local, state, or federal law to perform the project, when expedited action provides a clear benefit to salmon recovery, and there will be harm to salmon recovery if the project is delayed. For purposes of this subsection, a legal obligation does not include a project required solely as a mitigation or a condition of permitting.

(7) Property acquired or improved by a project sponsor may be conveyed to a federal agency if: (a) The agency agrees to comply with all terms of the grant or loan to which the project sponsor was obligated; or (b) the board approves: (i) Changes in the terms of the grant or loan, and the revision or removal of binding deed of right instruments; and (ii) a memorandum of understanding or similar document ensuring that the facility or property will retain, to the extent feasible, adequate habitat protections; and (c) the appropriate legislative authority of the county or city with jurisdiction over the project area approves the transfer and provides notification to the board.

(8) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. **Sec. 37.** A new section is added to chapter 77.85 RCW to read as follows:

When administering funds under this chapter, the board shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed by the Puget Sound partnership under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

Sec. 38. RCW 90.50A.030 and 1996 c 37 s 4 are each amended to read as follows:

The department ((~~of ecology~~)) shall use the moneys in the water pollution control revolving fund to provide financial assistance as provided in the water quality act of 1987 and as provided in RCW 90.50A.040:

(1) To make loans, on the condition that:

(a) Such loans are made at or below market interest rates, including interest free loans, at terms not to exceed twenty years;

(b) Annual principal and interest payments will commence not later than one year after completion of any project and all loans will be fully amortized not later then twenty years after project completion;

(c) The recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(d) The fund will be credited with all payments of principal and interest on all loans.

(2) Loans may be made for the following purposes:

(a) To public bodies for the construction or replacement of water pollution control facilities as defined in section 212 of the federal water quality act of 1987;

(b) For the implementation of a management program established under section 319 of the federal water quality act of 1987 relating to the management of nonpoint sources of pollution, subject to the requirements of that act; and

(c) For development and implementation of a conservation and management plan under section 320 of the federal water quality act of 1987 relating to the national estuary program, subject to the requirements of that act.

(3) The department may also use the moneys in the fund for the following purposes:

(a) To buy or refinance the water pollution control facilities' debt obligations of public bodies at or below market rates, if such debt was incurred after March 7, 1985;

(b) To guarantee, or purchase insurance for, public body obligations for water pollution control facility construction or replacement or activities if the guarantee or insurance would improve credit market access or reduce interest rates, or to provide loans to a public body for this purpose;

(c) As a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds

issued by the state if the proceeds of the sale of such bonds will be deposited in the fund;

(d) To earn interest on fund accounts; and

(e) To pay the expenses of the department in administering the water pollution control revolving fund according to administrative reserves authorized by federal and state law.

(4) ((~~Beginning with the biennium ending June 30, 1997,~~)) The department shall present a biennial progress report on the use of moneys from the account to the ((~~chairs of the senate committee on ways and means and the house of representatives committee on appropriations. The first report is due June 30, 1996, and the report for each succeeding biennium is due December 31 of the odd-numbered year~~))appropriate committees of the legislature. The report shall consist of a list of each recipient, project description, and amount of the grant, loan, or both.

(5) The department may not use the moneys in the water pollution control revolving fund for grants.

Sec. 39. RCW 90.50A.040 and 1988 c 284 s 5 are each amended to read as follows:

Moneys deposited in the water pollution control revolving fund shall be administered by the department ((~~of ecology~~)). In administering the fund, the department shall:

(1) Consistent with RCW 90.50A.030 and section 40 of this act, allocate funds for loans in accordance with the annual project priority list in accordance with section 212 of the federal water pollution control act as amended in 1987, and allocate funds under sections 319 and 320 according to the provisions of that act;

(2) Use accounting, audit, and fiscal procedures that conform to generally accepted government accounting standards;

(3) Prepare any reports required by the federal government as a condition to awarding federal capitalization grants;

(4) Adopt by rule any procedures or standards necessary to carry out the provisions of this chapter;

(5) Enter into agreements with the federal environmental protection agency;

(6) Cooperate with local, substate regional, and interstate entities regarding state assessment reports and state management programs related to the nonpoint source management programs as noted in section 319(c) of the federal water pollution control act amendments of 1987 and estuary programs developed under section 320 of that act; ((~~and~~))

(7) Comply with provisions of the water quality act of 1987; and

(8) After January 1, 2010, not provide funding for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under section 13 of this act.

NEW SECTION. **Sec. 40.** A new section is added to chapter 90.50A RCW to read as follows:

(1) In administering the fund, the department shall give priority consideration to:

(a) A public body that is a Puget Sound partner, as defined in RCW 90.71.010; and

(b) A project that is referenced in the action agenda developed by the Puget Sound partnership under section 13 of this act.

(2) When implementing this section, the department shall give preference only to Puget Sound partners, as defined in RCW 90.71.010, in comparison to other entities that are eligible to be included in the definition of Puget Sound partner. Entities that are not eligible to be a Puget Sound partner due to geographic location, composition, exclusion from the scope of the Puget Sound action agenda developed under section 13 of this act, or for any other reason, shall not be given less preferential treatment than Puget Sound partners.

NEW SECTION. **Sec. 41.** TRANSFER OF POWERS, DUTIES, AND FUNCTIONS--REFERENCES TO CHAIR OF THE PUGET SOUND ACTION TEAM. (1) The Puget Sound action team is hereby abolished and its powers, duties, and functions are hereby transferred to the Puget Sound partnership as consistent with this chapter. All references to the chair or the Puget Sound action team in the Revised Code of Washington shall be construed to mean the executive director or the Puget Sound partnership.

(2)(a) All employees of the Puget Sound action team are transferred to the jurisdiction of the Puget Sound partnership.

(b) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the Puget Sound action team shall be delivered to the custody of the Puget Sound partnership. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the Puget Sound action team shall be made available to the Puget Sound partnership. All funds, credits, or other assets held by the Puget Sound action team shall be assigned to the Puget Sound partnership.

(c) Any appropriations made to the Puget Sound action team shall, on the effective date of this section, be transferred and credited to the Puget Sound partnership.

(d) If any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the Puget Sound action team shall be continued and acted upon by the Puget Sound partnership. All existing contracts and obligations shall remain in full force and shall be performed by the Puget Sound partnership.

(4) The transfer of the powers, duties, functions, and personnel of the Puget Sound action team shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(6) Nothing contained in this section may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the public employment relations commission as provided by law.

NEW SECTION. **Sec. 42.** CAPTIONS NOT LAW. Captions used in this chapter are not any part of the law.

Sec. 43. RCW 90.71.100 and 2001 c 273 s 3 are each amended to read as follows:

(1)(a) The ((~~action team~~)) department of health shall ((~~establish a~~)) manage the established shellfish - on-site sewage grant program in Puget Sound and for Pacific and Grays Harbor counties. The ((~~action team~~)) department of health shall provide funds to local health jurisdictions to be used as grants or loans to individuals for improving their on-site sewage systems. The grants or loans may be provided only in areas that have the potential to adversely affect water quality in commercial and recreational shellfish growing areas.

(b) A recipient of a grant or loan shall enter into an agreement with the appropriate local health jurisdiction to maintain the improved on-site sewage system according to specifications required by the local health jurisdiction.

(c) The ((~~action team~~)) department of health shall work closely with local health jurisdictions and ((~~shall endeavor~~)) it shall be the goal of the department of health to attain geographic equity between Grays Harbor, Willapa Bay, and ((~~the~~)) Puget Sound when making funds available under this program.

(d) For the purposes of this subsection, "geographic equity" means issuing on-site sewage grants or loans at a level that matches the funds generated from the oyster reserve lands in that area.

(2) In ((~~the~~)) Puget Sound, the ((~~action team~~)) department of health shall give first priority to areas that are:

(a) Identified as "areas of special concern" under WAC 246-272-01001; ((~~or~~))

(b) Included within a shellfish protection district under chapter 90.72 RCW; or

(c) Identified as a marine recovery area under chapter 70.118A RCW.

(3) In Grays Harbor and Pacific counties, the ((~~action team~~)) department of health shall give first priority to preventing the deterioration of water quality in areas where commercial or recreational shellfish are grown.

(4) The ((~~action team~~)) department of health and each participating local health jurisdiction shall enter into a memorandum of understanding that will establish an applicant income eligibility requirement for individual grant applicants from within the jurisdiction and other mutually agreeable terms and conditions of the grant program.

(5) The ((~~action team~~)) department of health may recover the costs to administer this program not to exceed ten percent of the shellfish - on-site sewage grant program.

(6) ((~~For the 2001-2003 biennium, the action team may use up to fifty percent of the shellfish - on-site sewage grant program funds for grants to local health jurisdictions to establish areas of special concern under WAC 246-272-01001, or for operation and maintenance programs therein, where commercial and recreational uses are present~~)) For the 2007-2009 biennium, from the funds received under this section, Pacific county may transfer up to two hundred thousand dollars to the department of fish and wildlife for research identified by the department of fish and wildlife and the appropriate oyster reserve advisory committee under RCW 77.60.160.

Sec. 44. RCW 77.60.160 and 2001 c 273 s 2 are each amended to read as follows:

(1) The oyster reserve land account is created in the state treasury. All receipts from revenues from the lease of land or sale of shellfish from oyster reserve lands must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only as provided in this section.

(2) Funds in the account shall be used for the purposes provided for in this subsection:

(a) Up to forty percent for the management expenses incurred by the department that are directly attributable to the management of the oyster reserve lands and for the expenses associated with new research and development activities at the Pt. Whitney and Nahcotta shellfish laboratories managed by the department. As used in this subsection, "new research and development activities" includes an emphasis on the control of aquatic nuisance species and burrowing shrimp;

(b) Up to ten percent may be deposited into the state general fund; and

(c) Except as provided in subsection (3) of this section, all remaining funds in the account shall be used for the shellfish - on-site sewage grant program established in RCW 90.71.100.

(3)(a) No later than January 1st of each year, from revenues received from the Willapa bay oyster reserve, the department shall transfer one hundred thousand dollars to the on-site sewage grant program established in RCW 90.71.100 (as recodified by this act).

(b) All remaining revenues received from the Willapa bay oyster reserve shall be used to fund research activities as specified in subsection 2(a) of this section.

NEW SECTION. **Sec. 45.** A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in the Puget Sound partnership to the executive director, to one confidential secretary, and to all professional staff.

Sec. 46. RCW 43.17.010 and 2006 c 265 s 111 are each amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community, trade, and economic development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, (14) the department of health, (15) the department of financial institutions, (16) the department of archaeology and historic preservation, ((~~and~~)) (17) the department of early learning, and (18) the Puget Sound partnership, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

Sec. 47. RCW 43.17.020 and 2006 c 265 s 112 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, (14) the secretary of health, (15) the director of financial institutions, (16) the director of the department of archaeology and historic preservation, ((~~and~~)) (17) the director of early learning, and (18) the executive director of the Puget Sound partnership.

Such officers, except the director of fish and wildlife, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The director of fish and wildlife shall be appointed by the fish and wildlife commission as prescribed by RCW 77.04.055.

Sec. 48. RCW 42.17.2401 and 2006 c 265 s 113 are each amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the administrator of the Washington basic health plan, the director of the department of services for the blind, the director of the state system of community and technical colleges, the director of community, trade, and economic development, the secretary of corrections, the director of early learning, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of general administration, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the indeterminate sentence review board, the director of the department of information services, the director of the interagency committee for outdoor recreation, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business

enterprises, the director of parks and recreation, the director of personnel, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, board of trustees of each community college, each member of the state board for community and technical colleges, state convention and trade center board of directors, committee for deferred compensation, Eastern Washington University board of trustees, Washington economic development finance authority, The Evergreen State College board of trustees, executive ethics board, forest practices appeals board, forest practices board, gambling commission, life sciences discovery fund authority board of trustees, Washington health care facilities authority, each member of the Washington health services commission, higher education coordinating board, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, indeterminate sentence review board, board of industrial insurance appeals, information services board, interagency committee for outdoor recreation, state investment board, commission on judicial conduct, legislative ethics board, liquor control board, lottery commission, marine oversight board, Pacific Northwest electric power and conservation planning council, parks and recreation commission, ((~~personnel appeals board,~~)) board of pilotage commissioners, pollution control hearings board, public disclosure commission, public pension commission, shorelines hearing board, public employees' benefits board, salmon recovery funding board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington state maritime commission, Washington personnel resources board, Washington public power supply system executive board, Washington State University board of regents, Western Washington University board of trustees, and fish and wildlife commission.

Sec. 49. RCW 77.85.090 and 2005 c 309 s 7 are each amended to read as follows:

(1) The southwest Washington salmon recovery region, whose boundaries are provided in chapter 60, Laws of 1998, is created.

(2) Lead entities within a salmon recovery region that agree to form a regional salmon recovery organization may be recognized by the salmon recovery office as a regional recovery organization. The regional recovery organization may plan, coordinate, and monitor the implementation of a regional recovery plan in accordance with RCW 77.85.150. Regional recovery organizations existing as of July 24, 2005, that have developed draft recovery plans approved by the governor's salmon recovery office by July 1, 2005, may continue to plan, coordinate, and monitor the implementation of regional recovery plans.

(3) Beginning January 1, 2008, the leadership council, created under chapter 90.71 RCW, shall serve as the regional salmon recovery organization for Puget Sound salmon species, except for the program known as the Hood Canal summer chum evolutionarily significant unit area, which the Hood Canal coordinating council shall continue to administer under chapter 90.88 RCW.

Sec. 50. RCW 90.88.005 and 2005 c 478 s 1 are each amended to read as follows:

(1) The legislature finds that Hood Canal is a precious aquatic resource of our state. The legislature finds that Hood Canal is a rich source of recreation, fishing, aquaculture, and aesthetic enjoyment for the citizens of this state. The legislature also finds that Hood Canal has great cultural significance for the tribes in the Hood Canal area. The legislature therefore recognizes Hood Canal's substantial environmental, cultural, economic, recreational, and aesthetic importance in this state.

(2) The legislature finds that Hood Canal is a marine water of the state at significant risk. The legislature finds that Hood Canal has a "dead zone" related to low-dissolved oxygen concentrations, a condition that has recurred for many years. The legislature also finds that this problem and various contributors to the problem were documented in the May 2004 *Preliminary Assessment and Corrective Action Plan* published by the state agency known as the Puget Sound action team and the Hood Canal coordinating council.

(3) The legislature further finds that significant research, monitoring, and study efforts are currently occurring regarding Hood Canal's low-dissolved oxygen concentrations. The legislature also finds numerous public, private, and community organizations are working to provide public education and identify potential solutions. The legislature recognizes that, while some information and research is now available and some potential solutions have been identified, more research and analysis is needed to fully develop a program to address Hood Canal's low-dissolved oxygen concentrations.

(4) The legislature finds a need exists for the state to take action to address Hood Canal's low-dissolved oxygen concentrations. The legislature also finds establishing an aquatic rehabilitation zone for Hood Canal will serve as a statutory framework for future regulations and programs directed at recovery of this important aquatic resource.

(5) The legislature therefore intends to establish an aquatic rehabilitation zone for Hood Canal as the framework to address Hood Canal's low-dissolved oxygen concentrations. The legislature also intends to incorporate provisions in the new statutory chapter creating the designation as solutions are identified regarding this problem.

Sec. 51. RCW 90.88.020 and 2005 c 479 s 2 are each amended to read as follows:

(1) The development of a program for rehabilitation of Hood Canal is authorized in Jefferson, Kitsap, and Mason counties within the aquatic rehabilitation zone one.

(2) The Puget Sound ((~~action team~~)) partnership, created in section 3 of this act, is designated as the state lead agency for the rehabilitation program authorized in this section.

(3) The Hood Canal coordinating council is designated as the local management board for the rehabilitation program authorized in this section.

(4) The Puget Sound ((~~action team~~)) partnership and the Hood Canal coordinating council must each approve and must comanage projects under the rehabilitation program authorized in this section.

Sec. 52. RCW 90.88.030 and 2005 c 479 s 3 are each amended to read as follows:

(1) The Hood Canal coordinating council shall serve as the local management board for aquatic rehabilitation zone one. The local management board shall coordinate local government efforts with respect to the program authorized according to RCW 90.88.020. In the Hood Canal area, the Hood Canal coordinating council also shall:

(a) Serve as the lead entity and the regional recovery organization for the purposes of chapter 77.85 RCW for Hood Canal summer chum; and

(b) Assist in coordinating activities under chapter 90.82 RCW.

(2) When developing and implementing the program authorized in RCW 90.88.020 and when establishing funding

criteria according to subsection (7) of this section, the Puget Sound ((~~action team~~)) partnership, created in section 3 of this act, and the local management board shall solicit participation by federal, tribal, state, and local agencies and universities and nonprofit organizations with expertise in areas related to program activities. The local management board may include state and federal agency representatives, or additional persons, as nonvoting management board members or may receive technical assistance and advice from them in other venues. The local management board also may appoint technical advisory committees as needed.

(3) The local management board and the Puget Sound ((~~action team~~)) partnership shall participate in the development of the program authorized under RCW 90.88.020.

(4) The local management board and its participating local and tribal governments shall assess concepts for a regional governance structure and shall submit a report regarding the findings and recommendations to the appropriate committees of the legislature by December 1, 2007.

(5) Any of the local management board's participating counties and tribes, any federal, tribal, state, or local agencies, or any universities or nonprofit organizations may continue individual efforts and activities for rehabilitation of Hood Canal. Nothing in this section limits the authority of units of local government to enter into interlocal agreements under chapter 39.34 RCW or any other provision of law.

(6) The local management board may not exercise authority over land or water within the individual counties or otherwise preempt the authority of any units of local government.

(7) The local management board and the Puget Sound ((~~action team~~)) partnership each may receive and disburse funding for projects, studies, and activities related to Hood Canal's low-dissolved oxygen concentrations. The Puget Sound ((~~action team~~)) partnership and the local management board shall jointly coordinate a process to prioritize projects, studies, and activities for which the Puget Sound ((~~action team~~)) partnership receives state funding specifically allocated for Hood Canal corrective actions to implement this section. The local management board and the Puget Sound ((~~action team~~)) partnership shall establish criteria for funding these projects, studies, and activities based upon their likely value in addressing and resolving Hood Canal's low-dissolved oxygen concentrations. Final approval for projects under this section requires the consent of both the Puget Sound ((~~action team~~)) partnership and the local management board. Projects under this section must be comanaged by the Puget Sound ((~~action team~~)) partnership and the local management board. Nothing in this section prohibits any federal, tribal, state, or local agencies, universities, or nonprofit organizations from receiving funding for specific projects that may assist in the rehabilitation of Hood Canal.

(8) The local management board may hire and fire staff, including an executive director, enter into contracts, accept grants and other moneys, disburse funds, make recommendations to local governments about potential regulations and the development of programs and incentives upon request, pay all necessary expenses, and choose a fiduciary agent.

(9) The local management board shall report its progress on a quarterly basis to the legislative bodies of the participating counties and tribes and the participating state agencies. The local management board also shall submit an annual report describing its efforts and successes in implementing the program established according to RCW 90.88.020 to the appropriate committees of the legislature.

Sec. 53. RCW 90.88.901 and 2005 c 479 s 5 are each amended to read as follows:

Nothing in chapter 479, Laws of 2005 provides any regulatory authority to the Puget Sound ((~~action team~~)) partnership, created in section 3 of this act, or the Hood Canal coordinating council.

Sec. 54. RCW 90.88.902 and 2005 c 479 s 6 are each amended to read as follows:

The activities of the Puget Sound ((~~action team~~)) partnership, created in section 3 of this act, and the Hood Canal coordinating council required by chapter 479, Laws of 2005 are subject to the availability of amounts appropriated for this specific purpose.

Sec. 55. RCW 90.48.260 and 2003 c 325 s 7 are each amended to read as follows:

The department of ecology is hereby designated as the State Water Pollution Control Agency for all purposes of the federal clean water act as it exists on February 4, 1987, and is hereby authorized to participate fully in the programs of the act as well as to take all action necessary to secure to the state the benefits and to meet the requirements of that act. With regard to the national estuary program established by section 320 of that act, the department shall exercise its responsibility jointly with the Puget Sound ((~~water quality authority~~)) partnership, created in section 3 of this act. The department of ecology may delegate its authority under this chapter, including its national pollutant discharge elimination permit system authority and duties regarding animal feeding operations and concentrated animal feeding operations, to the department of agriculture through a memorandum of understanding. Until any such delegation receives federal approval, the department of agriculture's adoption or issuance of animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives pertaining to water quality shall be accomplished after reaching agreement with the director of the department of ecology. Adoption or issuance and implementation shall be accomplished so that compliance with such animal feeding operation and concentrated animal feeding operation rules, permits, programs, and directives will achieve compliance with all federal and state water pollution control laws. The powers granted herein include, among others, and notwithstanding any other provisions of chapter 90.48 RCW or otherwise, the following:

(1) Complete authority to establish and administer a comprehensive state point source waste discharge or pollution discharge elimination permit program which will enable the department to qualify for full participation in any national waste discharge or pollution discharge elimination permit system and will allow the department to be the sole agency issuing permits required by such national system operating in the state of Washington subject to the provisions of RCW 90.48.262(2). Program elements authorized herein may include, but are not limited to: (a) Effluent treatment and limitation requirements together with timing requirements related thereto; (b) applicable receiving water quality standards requirements; (c) requirements of standards of performance for new sources; (d) pretreatment requirements; (e) termination and modification of permits for cause; (f) requirements for public notices and opportunities for public hearings; (g) appropriate relationships with the secretary of the army in the administration of his responsibilities which relate to anchorage and navigation, with the administrator of the environmental protection agency in the performance of his duties, and with other governmental officials under the federal clean water act; (h) requirements for inspection, monitoring, entry, and reporting; (i) enforcement of the program through penalties, emergency powers, and criminal sanctions; (j) a continuing planning process; and (k) user charges.

(2) The power to establish and administer state programs in a manner which will insure the procurement of moneys, whether in the form of grants, loans, or otherwise; to assist in the construction, operation, and maintenance of various water pollution control facilities and works; and the administering of various state water pollution control management, regulatory, and enforcement programs.

(3) The power to develop and implement appropriate programs pertaining to continuing planning processes, area-wide waste treatment management plans, and basin planning.

The governor shall have authority to perform those actions required of him or her by the federal clean water act.

Sec. 56. RCW 79A.60.520 and 1999 c 249 s 1507 are each amended to read as follows:

The commission, in consultation with the departments of ecology, fish and wildlife, natural resources, social and health services, and the Puget Sound ((~~action team~~)) partnership shall conduct a literature search and analyze pertinent studies to identify areas which are polluted or environmentally sensitive within the state's waters. Based on this review the commission shall designate appropriate areas as polluted or environmentally sensitive, for the purposes of chapter 393, Laws of 1989 only.

Sec. 57. RCW 79A.60.510 and 1999 c 249 s 1506 are each amended to read as follows:

The legislature finds that the waters of Washington state provide a unique and valuable recreational resource to large and growing numbers of boaters. Proper stewardship of, and respect for, these waters requires that, while enjoying them for their scenic and recreational benefits, boaters must exercise care to assure that such activities do not contribute to the despoliation of these waters, and that watercraft be operated in a safe and responsible manner. The legislature has specifically addressed the topic of access to clean and safe waterways by requiring the 1987 boating safety study and by establishing the Puget Sound ((~~action team~~)) partnership.

The legislature finds that there is a need to educate Washington's boating community about safe and responsible actions on our waters and to increase the level and visibility of the enforcement of boating laws. To address the incidence of fatalities and injuries due to recreational boating on our state's waters, local and state efforts directed towards safe boating must be stimulated. To provide for safe waterways and public enjoyment, portions of the watercraft excise tax and boat registration fees should be made available for boating safety and other boating recreation purposes.

In recognition of the need for clean waterways, and in keeping with the Puget Sound ((~~action team's~~)) partnership's water quality work plan, the legislature finds that adequate opportunities for responsible disposal of boat sewage must be made available. There is hereby established a five-year initiative to install sewage pumpout or sewage dump stations at appropriate marinas.

To assure the use of these sewage facilities, a boater environmental education program must accompany the five-year initiative and continue to educate boaters about boat wastes and aquatic resources.

The legislature also finds that, in light of the increasing numbers of boaters utilizing state waterways, a program to acquire and develop sufficient waterway access facilities for boaters must be undertaken.

To support boating safety, environmental protection and education, and public access to our waterways, the legislature declares that a portion of the income from boating-related activities, as specified in RCW 82.49.030 and 88.02.040, should support these efforts.

Sec. 58. RCW 79.105.500 and 2005 c 155 s 158 are each amended to read as follows:

The legislature finds that the department provides, manages, and monitors aquatic land dredged material disposal sites on state-owned aquatic lands for materials dredged from rivers, harbors, and shipping lanes. These disposal sites are approved through a cooperative planning process by the departments of natural resources and ecology, the United States army corps of engineers, and the United States environmental protection agency in cooperation with the Puget Sound ((~~action team~~)) partnership. These disposal sites are essential to the commerce and well-being of the citizens of the state of Washington. Management and environmental monitoring of these sites are necessary to protect environmental quality and to assure appropriate use of state-owned aquatic lands. The creation of an aquatic land dredged material disposal site account is a reasonable means to enable and facilitate proper management and environmental monitoring of these disposal sites.

Sec. 59. RCW 77.60.130 and 2000 c 149 s 1 are each amended to read as follows:

(1) The aquatic nuisance species committee is created for the purpose of fostering state, federal, tribal, and private cooperation on aquatic nuisance species issues. The mission of the committee is to minimize the unauthorized or accidental introduction of nonnative aquatic species and give special emphasis to preventing the introduction and spread of aquatic nuisance species. The term "aquatic nuisance species" means a nonnative aquatic plant or animal species that threatens the diversity or abundance of native species, the ecological stability of infested waters, or commercial, agricultural, or recreational activities dependent on such waters.

(2) The committee consists of representatives from each of the following state agencies: Department of fish and wildlife, department of ecology, department of agriculture, department of health, department of natural resources, Puget Sound ((~~water quality action team~~))partnership, state patrol, state noxious weed control board, and Washington sea grant program. The committee shall encourage and solicit participation by: Federally recognized tribes of Washington, federal agencies, Washington conservation organizations, environmental groups, and representatives from industries that may either be affected by the introduction of an aquatic nuisance species or that may serve as a pathway for their introduction.

(3) The committee has the following duties:

(a) Periodically revise the state of Washington aquatic nuisance species management plan, originally published in June 1998;

(b) Make recommendations to the legislature on statutory provisions for classifying and regulating aquatic nuisance species;

(c) Recommend to the state noxious weed control board that a plant be classified under the process designated by RCW 17.10.080 as an aquatic noxious weed;

(d) Coordinate education, research, regulatory authorities, monitoring and control programs, and participate in regional and national efforts regarding aquatic nuisance species;

(e) Consult with representatives from industries and other activities that may serve as a pathway for the introduction of aquatic nuisance species to develop practical strategies that will minimize the risk of new introductions; and

(f) Prepare a biennial report to the legislature with the first report due by December 1, 2001, making recommendations for better accomplishing the purposes of this chapter, and listing the accomplishments of this chapter to date.

(4) The committee shall accomplish its duties through the authority and cooperation of its member agencies. Implementation of all plans and programs developed by the committee shall be through the member agencies and other cooperating organizations.

Sec. 60. RCW 70.146.070 and 1999 c 164 s 603 are each amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the

surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(f) The recommendations of the Puget Sound ((~~action team~~)) partnership, created in section 3 of this act, and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving a grant or loan under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 which has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before submitting a request for a grant or loan.

(3) Whenever the department is considering awarding grants or loans for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, it shall consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

Sec. 61. RCW 70.118.090 and 1994 c 281 s 6 are each amended to read as follows:

The department may not use funds appropriated to implement an element of the action agenda developed by the Puget Sound ((~~water quality authority plan~~)) partnership under section 13 of this act to conduct any activity required under chapter 281, Laws of 1994.

Sec. 62. RCW 43.21J.030 and 1998 c 245 s 60 are each amended to read as follows:

(1) There is created the environmental enhancement and job creation task force within the office of the governor. The purpose of the task force is to provide a coordinated and comprehensive approach to implementation of chapter 516, Laws of 1993. The task force shall consist of the commissioner of public lands, the director of the department of fish and wildlife, the director of the department of ecology, the director of the parks and recreation commission, the timber team coordinator, the executive director of the work force training and education coordinating board, and the executive director of the Puget Sound ((~~water quality authority~~)) partnership, or their designees. The task force may seek the advice of the following agencies and organizations: The department of community, trade, and economic development, the conservation commission, the employment security department, the interagency committee for outdoor recreation, appropriate federal agencies, appropriate special districts, the Washington state association of counties, the association of Washington cities, labor organizations, business organizations, timber-dependent communities, environmental organizations, and Indian tribes. The governor shall appoint the task force chair. Members of the task force shall serve without additional pay. Participation in the work of the committee by agency members shall be considered in performance of their employment. The governor shall designate staff and administrative support to the task force and shall solicit the participation of agency personnel to assist the task force.

(2) The task force shall have the following responsibilities:

(a) Soliciting and evaluating, in accordance with the criteria set forth in RCW 43.21J.040, requests for funds from the environmental and forest restoration account and making distributions from the account. The task force shall award funds for projects and training programs it approves and may allocate the funds to state agencies for disbursement and contract administration;

(b) Coordinating a process to assist state agencies and local governments to implement effective environmental and forest restoration projects funded under this chapter;

(c) Considering unemployment profile data provided by the employment security department.

(3) Beginning July 1, 1994, the task force shall have the following responsibilities:

(a) To solicit and evaluate proposals from state and local agencies, private nonprofit organizations, and tribes for environmental and forest restoration projects;

(b) To rank the proposals based on criteria developed by the task force in accordance with RCW 43.21J.040; and

(c) To determine funding allocations for projects to be funded from the account created in RCW 43.21J.020 and for projects or programs as designated in the omnibus operating and capital appropriations acts.

Sec. 63. RCW 43.21J.040 and 1993 c 516 s 4 are each amended to read as follows:

(1) Subject to the limitations of RCW 43.21J.020, the task force shall award funds from the environmental and forest restoration account on a competitive basis. The task force shall evaluate and rate environmental enhancement and restoration project proposals using the following criteria:

(a) The ability of the project to produce measurable improvements in water and habitat quality;

(b) The cost-effectiveness of the project based on: (i) Projected costs and benefits of the project; (ii) past costs and environmental benefits of similar projects; and (iii) the ability of the project to achieve cost efficiencies through its design to meet multiple policy objectives;

(c) The inclusion of the project as a high priority in a federal, state, tribal, or local government plan relating to environmental or forest restoration, including but not limited to a local watershed action plan, storm water management plan, capital facility plan, growth management plan, or a flood control plan; or the ranking of the project by conservation districts as a high priority for water quality and habitat improvements;

(d) The number of jobs to be created by the project for dislocated forest products workers, high-risk youth, and residents of impact areas;

(e) Participation in the project by environmental businesses to provide training, cosponsor projects, and employ or jointly employ project participants;

(f) The ease with which the project can be administered from the community the project serves;

(g) The extent to which the project will either augment existing efforts by organizations and governmental entities involved in environmental and forest restoration in the community or receive matching funds, resources, or in-kind contributions; and

(h) The capacity of the project to produce jobs and job-related training that will pay market rate wages and impart marketable skills to workers hired under this chapter.

(2) The following types of projects and programs shall be given top priority in the first fiscal year after July 1, 1993:

(a) Projects that are highly ranked in and implement adopted or approved watershed action plans, such as those developed pursuant to rules adopted by the agency then known as the Puget Sound water quality authority ((~~rules adopted~~)) for local planning and management of nonpoint source pollution;

(b) Conservation district projects that provide water quality and habitat improvements;

(c) Indian tribe projects that provide water quality and habitat improvements; or

(d) Projects that implement actions approved by a shellfish protection district under chapter 100, Laws of 1992.

(3) Funds shall not be awarded for the following activities:
(a) Administrative rule making;
(b) Planning; or
(c) Public education.

Sec. 64. RCW 28B.30.632 and 1990 c 289 s 2 are each amended to read as follows:

(1) The sea grant and cooperative extension shall jointly administer a program to provide field agents to work with local governments, property owners, and the general public to increase the propagation of shellfish, and to address Puget Sound water quality problems within Kitsap, Mason, and Jefferson counties that may limit shellfish propagation potential. The sea grant and cooperative extension shall each make available the services of no less than two agents within these counties for the purposes of this section.

(2) The responsibilities of the field agents shall include but not be limited to the following:

(a) Provide technical assistance to property owners, marine industry owners and operators, and others, regarding methods and practices to address nonpoint and point sources of pollution of Puget Sound;

(b) Provide technical assistance to address water quality problems limiting opportunities for enhancing the recreational harvest of shellfish;

(c) Provide technical assistance in the management and increased production of shellfish to facility operators or to those interested in establishing an operation;

(d) Assist local governments to develop and implement education and public involvement activities related to Puget Sound water quality;

(e) Assist in coordinating local water quality programs with region-wide and statewide programs;

(f) Provide information and assistance to local watershed committees.

(3) The sea grant and cooperative extension shall mutually coordinate their field agent activities to avoid duplicative efforts and to ensure that the full range of responsibilities under RCW 28B.30.632 through 28B.30.636 are carried out. They shall consult with the Puget Sound ((~~water quality authority~~)) partnership, created in section 3 of this act, and ensure consistency with ((~~the authority's~~)) any of the Puget Sound partnership's water quality management plans.

(4) Recognizing the special expertise of both agencies, the sea grant and cooperative extension shall cooperate to divide their activities as follows:

(a) Sea grant shall have primary responsibility to address water quality issues related to activities within Puget Sound, and to provide assistance regarding the management and improvement of shellfish production; and

(b) Cooperative extension shall have primary responsibility to address upland and freshwater activities affecting Puget Sound water quality and associated watersheds.

NEW SECTION. **Sec. 65.** RCW 90.71.902 and 90.71.903 are each decodified.

NEW SECTION. **Sec. 66.** RCW 90.71.100 is recodified as a new section in chapter 70.118 RCW.

NEW SECTION. **Sec. 67.** The following acts or parts of acts are each repealed:
(1) RCW 90.71.005 (Findings) and 1998 c 246 s 13 & 1996 c 138 s 1;
(2) RCW 90.71.015 (Environmental excellence program agreements--Effect on chapter) and 1997 c 381 s 30;
(3) RCW 90.71.020 (Puget Sound action team) and 1998 c 246 s 14 & 1996 c 138 s 3;
(4) RCW 90.71.030 (Puget Sound council) and 1999 c 241 s 3 & 1996 c 138 s 4;
(5) RCW 90.71.040 (Chair of action team) and 1996 c 138 s 5;
(6) RCW 90.71.050 (Work plans) and 1998 c 246 s 15 & 1996 c 138 s 6;
(7) RCW 90.71.070 (Work plan implementation) and 1996 c 138 s 8;
(8) RCW 90.71.080 (Public participation) and 1996 c 138 s 9;
(9) RCW 90.71.900 (Short title--1996 c 138) and 1996 c 138 s 15; and
(10) RCW 90.71.901 (Captions not law) and 1996 c 138 s 14.

NEW SECTION. **Sec. 68.** Sections 1, 3 through 21, 23, 41, and 42 of this act are each added to chapter 90.71 RCW.

NEW SECTION. **Sec. 69.** 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. 70.** 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."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Poulsen moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5372.

Senator Poulsen spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Poulsen that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5372.

The motion by Senator Poulsen carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5372 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5372, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5372, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 4; Absent, 2; Excused, 0.

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

Voting nay: Senators Holmquist, Honeyford, Schoesler and Stevens - 4

Absent: Senators Brown and Pridemore - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 5372, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

NOTICE OF RECONSIDERATION

On motion of Senator McAuliffe, having voted on the prevailing side, the motion by which the Senate adhered to its position on House Bill No. 1051 was immediately reconsidered.

The President declared the question before the Senate to be the motion that the Senate adhere to its position on House Bill No. 1051.

The motion by Senator McAuliffe failed and the Senate did not adhere to its position on House Bill No. 1051 by voice vote.

The President declared the question before the Senate to be the motion to move to reconsider to motion by which the Senate adheres to it's position to House Bill No. 1051 passed the Senate.

The motion to adhere to House Bill No. 1051 failed by voice vote.

MOTION

Senator McAuliffe moved that the Senate recede from its position in the Senate amendment(s) to House Bill No. 1051.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate recede from its position in the Senate amendment(s) to House Bill No. 1051.

The motion by Senator McAuliffe carried and the Senate receded from its position in the Senate amendment(s) to House Bill No. 1051.

MOTION

On motion of Senator McAuliffe, the rules were suspended and House Bill No. 1051 was returned to second reading for the purposes of amendment.

MOTION

On motion of Senator Eide, further consideration of House Bill No. 1051 was deferred and the bill held its place on the second reading calendar.

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

Under suspension of rules SUBSTITUTE SENATE BILL NO. 5288 was returned to second reading for purpose of an amendment: 5288-S AMH SANT COLV 049, and passed the House as amended by the House.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28A.300.285 and 2002 c 207 s 2 are each amended to read as follows:

(1) By August 1, 2003, each school district shall adopt or amend if necessary a policy, within the scope of its authority, that prohibits the harassment, intimidation, or bullying of any student. It is the responsibility of each school district to share this policy with parents or guardians, students, volunteers, and school employees.

(2) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act, including but not limited to one shown to be motivated by any characteristic in RCW 9A.36.080(3), or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

(a) Physically harms a student or damages the student's property; or

(b) Has the effect of substantially interfering with a student's education; or

(c) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(d) Has the effect of substantially disrupting the orderly operation of the school.

Nothing in this section requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

(3) The policy should be adopted or amended through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives. It is recommended that each such policy emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying.

(4) By August 1, 2002, the superintendent of public instruction, in consultation with representatives of parents, school personnel, and other interested parties, shall provide to school districts and educational service districts a model harassment, intimidation, and bullying prevention policy and training materials on the components that should be included in any district policy. Training materials shall be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the office of the superintendent of public instruction's web site, with a link to the safety center web page. On the web site:

(a) The office of the superintendent of public instruction shall post its model policy, recommended training materials, and instructional materials;

(b) The office of the superintendent of public instruction has the authority to update with new technologies access to this information in the safety center, to the extent resources are made available; and

(c) Individual school districts shall have direct access to the safety center web site to post a brief summary of their policies, programs, partnerships, vendors, and instructional and training materials, and to provide a link to the school district's web site for further information.

(5) The Washington state school directors association, with the assistance of the office of the superintendent of public instruction, shall convene an advisory committee to develop a model policy prohibiting acts of harassment, intimidation, or bullying that are conducted via electronic means by a student while on school grounds and during the school day. The policy shall include a requirement that materials meant to educate parents and students about the seriousness of cyberbullying be disseminated to parents or made available on the school district's web site. The school directors association and the advisory committee shall develop sample materials for school districts to disseminate, which shall also include information on responsible and safe internet use as well as what options are available if a student is being bullied via electronic means, including but not limited to, reporting threats to local police and when to involve school officials, the internet service provider, or phone service provider. The school directors association shall submit the model policy and sample materials, along with a recommendation for local adoption, to the governor and the legislature and shall post the model policy and sample materials on its web site by January 1, 2008. Each school district board of directors shall establish its own policy by August 1, 2008.

(6) As used in this section, "electronic" or "electronic means" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5288.

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

MOTION

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5288.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5288 by voice vote.

Senator Holmquist spoke in favor of final passage.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5288, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5288, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 40; Nays, 8; Absent, 1; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Swecker, Tom and Weinstein - 40

Voting nay: Senators Carrell, Hewitt, Honeyford, McCaslin, Morton, Schoesler, Stevens and Zarelli - 8

Absent: Senator Brown - 1

SUBSTITUTE SENATE BILL NO. 5288, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Regala, Senator Brown was excused.

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

Under suspension of rules ENGROSSED SUBSTITUTE SENATE BILL NO. 5317 was returned to second reading for purpose of an amendment: 5317-S.E AMH KAGI H3583.1, and passed the House as amended by the House.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.215.005 and 2006 c 265 s 101 are each amended to read as follows:

(1) The legislature recognizes that:

(a) Parents are their children's first and most important teachers and decision makers;

(b) Research across disciplines now demonstrates that what happens in the earliest years makes a critical difference in children's readiness to succeed in school and life;

(c) Washington's competitiveness in the global economy requires a world-class education system that starts early and supports life-long learning;

(d) Washington state currently makes substantial investments in voluntary child care and early learning services and supports, but because services are fragmented across multiple state agencies, and early learning providers lack the supports and incentives needed to improve the quality of services they provide, many parents have difficulty accessing high quality early learning services;

(e) A more cohesive and integrated voluntary early learning system would result in greater efficiencies for the state, increased partnership between the state and the private sector, improved access to high quality early learning services, and better employment and early learning outcomes for families and all children.

(2) The legislature finds that the early years of a child's life are critical to the child's healthy brain development and that the quality of caregiving during the early years can significantly impact the child's intellectual, social, and emotional development.

(3) The purpose of this chapter is:

(a) To establish the department of early learning;

(b) To coordinate and consolidate state activities relating to child care and early learning programs;

(c) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care;

(d) To provide tools to promote the hiring of suitable providers of child care by:

(i) Providing parents with access to information regarding child care providers;

(ii) Providing parents with child care licensing action histories regarding child care providers; and

(iii) Requiring background checks of applicants for employment in any child care facility licensed or regulated under current law;

(e) To promote linkages and alignment between early learning programs and elementary schools and support the transition of children and families from prekindergarten environments to kindergarten;

((~~(e)~~)) (f) To promote the development of a sufficient number and variety of adequate child care and early learning facilities, both public and private; and

((~~(f)~~)) (g) To license agencies and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities.

(4) This chapter does not expand the state's authority to license or regulate activities or programs beyond those licensed or regulated under existing law.

Sec. 2. RCW 43.215.010 and 2006 c 265 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) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child day care provider who regularly provides child day care and early learning services for not more than twelve children in the provider's home in the family living quarters;

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

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

(a) Persons related to the child in the following ways:

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

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

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

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

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools or kindergartens that are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

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

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

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

(j) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

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

(l) An agency that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Department" means the department of early learning.

(((4))) (5) "Director" means the director of the department.

(((5))) (6) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

(7) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW 43.215.300(3).

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

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

Sec. 3. RCW 43.215.200 and 2006 c 265 s 301 are each amended to read as follows:

It shall be the director's duty with regard to licensing:

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

(2) In consultation and with the advice and assistance of parents or guardians, and persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed under this chapter((~~:~~

~~The minimum requirements shall be limited to:~~

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

~~(b) The character, suitability, and competence of an agency and other persons associated with an agency directly responsible for the care of children. In consultation with law enforcement personnel, the director shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a provider licensed under this chapter. In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children shall be fingerprinted. The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history records check. The fingerprint criminal history records checks will be at the expense of the licensee. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record. The director shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children. Criminal justice agencies shall provide the director such information as they may have and that the director may require for such purpose;~~

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

~~(d) The health, safety, cleanliness, and general adequacy of the premises to provide for the comfort, care, and well-being of children;~~

~~(e) The provision of necessary care and early learning, including food, supervision, and discipline; physical, mental, and social well-being; and educational and recreational opportunities for those served;~~

~~(f) The financial ability of an agency to comply with minimum requirements established under this chapter; and~~

~~(g) The maintenance of records pertaining to the care of children~~));

(3) In consultation with law enforcement personnel, the director shall investigate the conviction record or pending charges of each agency and its staff seeking licensure or relicensure, and other persons having unsupervised access to children in care;

(4) To issue, revoke, or deny licenses to agencies pursuant to this chapter. Licenses shall specify the category of care that an agency is authorized to render and the ages and number of children to be served;

(((4))) (5) To prescribe the procedures and the form and contents of reports necessary for the administration of this chapter and to require regular reports from each licensee;

(((5))) (6) To inspect agencies periodically to determine whether or not there is compliance with this chapter and the requirements adopted under this chapter;

(((6))) (7) To review requirements adopted under this chapter at least every two years and to adopt appropriate

changes after consultation with affected groups for child day care requirements; and

((~~(7)~~)) (8) To consult with public and private agencies in order to help them improve their methods and facilities for the care and early learning of children.

NEW SECTION. **Sec. 4.** MINIMUM REQUIREMENTS FOR LICENSING. Applications for licensure shall require, at a minimum, the following information:

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

(2) The character, suitability, and competence of an agency and other persons associated with an agency directly responsible for the care of children;

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

(4) The health, safety, cleanliness, and general adequacy of the premises to provide for the comfort, care, and well-being of children;

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

(6) The financial ability of an agency to comply with minimum requirements established under this chapter; and

(7) The maintenance of records pertaining to the care of children.

NEW SECTION. **Sec. 5.** CHARACTER, SUITABILITY, AND COMPETENCE. (1) In determining whether an individual is of appropriate character, suitability, and competence to provide child care and early learning services to children, the department may consider the history of past involvement of child protective services or law enforcement agencies with the individual for the purpose of establishing a pattern of conduct, behavior, or inaction with regard to the health, safety, or welfare of a child. No report of child abuse or neglect that has been destroyed or expunged under RCW 26.44.031 may be used for such purposes. No unfounded or inconclusive allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a provider licensed under this chapter.

(2) In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children, shall be fingerprinted.

(a) The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history record check.

(b) The fingerprint criminal history record checks shall be at the expense of the licensee. The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record.

(c) The director shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children.

(d) Criminal justice agencies shall provide the director such information as they may have and that the director may require for such purpose.

Sec. 6. RCW 43.215.525 and 2006 c 209 s 11 are each amended to read as follows:

(1) Every child day-care center and family day-care provider shall prominently post the following items, clearly visible to parents and staff:

(a) The license issued under this chapter;

(b) The department's toll-free telephone number established by RCW ((~~74.15.310~~)) 43.215.520;

(c) The notice of any pending enforcement action. The notice must be posted immediately upon receipt. The notice must be posted for at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer;

(d) A notice that inspection reports and any notices of enforcement actions for the previous three years are available from the licensee and the department; and

(e) Any other information required by the department.

(2) The department shall disclose((~~, upon request,~~)) the receipt, general nature, and resolution or current status of all complaints on record with the department after July 24, 2005, against a child day-care center or family day-care provider that result in an enforcement action. Information may be posted:

(a) On a web site; or

(b) In a physical location that is easily accessed by parents and potential employers.

(3) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW.

Sec. 7. RCW 43.215.530 and 2006 c 209 s 12 are each amended to read as follows:

(1) Every child day-care center and family day-care provider shall have readily available for review by the department, parents, and the public a copy of each inspection report and notice of enforcement action received by the center or provider from the department for the past three years. This subsection only applies to reports and notices received on or after July 24, 2005.

(2) The department shall make available to the public during business hours all inspection reports and notices of enforcement actions involving child day-care centers and family day-care providers ((~~consistent with chapter 42.56 RCW~~)). The department shall include in the inspection report a statement of the corrective measures taken by the center or provider.

(3) The department may make available on a publicly accessible web site all inspection reports and notices of licensing actions, including the corrective measures required or taken, involving child day-care centers and family day-care providers.

(4) This section shall not be construed to require the disclosure of any information that is exempt from public disclosure under chapter 42.56 RCW.

NEW SECTION. **Sec. 8.** PARENTAL NOTIFICATION. The department and an agency must, at the first opportunity but in all cases within forty-eight hours of receiving a report alleging sexual misconduct or abuse by an agency employee, notify the parents or guardian of a child alleged to be the victim, target, or recipient of the misconduct or abuse. The department and an agency shall provide parents annually with information regarding their rights under the public records act, chapter 42.56 RCW, to request the public records regarding the employee.

NEW SECTION. **Sec. 9.** REPORTING ACTIONS--POSTING ON WEB SITE. For the purposes of reporting actions taken against agency licensees, upon the development of an early learning information system, the following actions shall be posted to the department's web site accessible by the public: Suspension, surrender, revocation, denial, stayed suspension, or reinstatement of a license.

Sec. 10. RCW 43.215.535 and 2005 c 473 s 7 are each amended to read as follows:

(1) Every licensed child day-care center shall, at the time of licensure or renewal and at any inspection, provide to the department proof that the licensee has day-care insurance as defined in RCW 48.88.020, or is self-insured pursuant to chapter 48.90 RCW.

(a) Every licensed child day-care center shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day-care center, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(b) Liability limits under this subsection shall be the same as set forth in RCW 48.88.050.

(c) The department may take action as provided in RCW ((~~74.15.130~~)) 43.215.300 if the licensee fails to maintain in full force and effect the insurance required by this subsection.

(d) This subsection applies to child day-care centers holding licenses, initial licenses, and probationary licenses under this chapter.

(e) A child day-care center holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(2)(a) Every licensed family day-care provider shall, at the time of licensure or renewal either:

(i) Provide to the department proof that the licensee has day-care insurance as defined in RCW 48.88.020, or other applicable insurance; or

(ii) Provide written notice of their insurance status on a standard form developed by the department to parents with a child enrolled in family day care and keep a copy of the notice to each parent on file. Family day-care providers may choose to opt out of the requirement to have day care or other applicable insurance but must provide written notice of their insurance status to parents with a child enrolled and shall not be subject to the requirements of (b)((~~,~~)) or (c)((~~, or (d)~~)) of this subsection.

(b) Any licensed family day-care provider that provides to the department proof that the licensee has insurance as provided under (a)(i) of this subsection shall comply with the following requirements:

(i) Notify the department when coverage has been terminated;

(ii) Post at the day-care home, in a manner likely to be observed by patrons, notice that coverage has lapsed or been terminated;

(iii) Provide written notice to parents that coverage has lapsed or terminated within thirty days of lapse or termination.

(c) Liability limits under (a)(i) of this subsection shall be the same as set forth in RCW 48.88.050.

(d) The department may take action as provided in RCW ((~~74.15.130~~)) 43.215.300 if the licensee fails to ((~~notify the department when coverage has been terminated as required under (b)~~)) comply with the requirements of this subsection.

(e) A family day-care provider holding a license under this chapter on July 24, 2005, is not required to be in compliance with this subsection until the time of renewal of the license or until January 1, 2006, whichever is sooner.

(3) Noncompliance or compliance with the provisions of this section shall not constitute evidence of liability or nonliability in any injury litigation.

NEW SECTION. **Sec. 11.** Captions used in this act are not any part of the law.

NEW SECTION. **Sec. 12.** Sections 4, 5, 8, and 9 of this act are each added to chapter 43.215 RCW."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5317.

Senators Kohl-Welles and Hargrove spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5317.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5317 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5317, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5317, as amended by the House, 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

ENGROSSED SUBSTITUTE SENATE BILL NO. 5317, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 20, 2007

MR. PRESIDENT:

The House insists on its position regarding the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1091 and again asks Senate to recede therefrom.

and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kastama moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1091.

The President declared the question before the Senate to be motion by Senator Kastama that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1091.

The motion by Senator Kastama carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 1091.

MOTION

On motion of Senator Kastama, the rules were suspended and Substitute House Bill No. 1091 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1091, by House Committee on Community & Economic Development & Trade (originally sponsored by Representatives VanDeWege, Chase, Upthegrove, Miloscia, B. Sullivan, O'Brien, P. Sullivan, Morrell, Sells, Kenney, Rolfes, Kelley, Moeller, Wallace and Eddy)

Promoting innovation partnership zones.

The measure was read the second time.

MOTION

Senator Kastama moved that the following striking amendment by Senators Kastama and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The director shall designate innovation partnership zones on the basis of the following criteria:

(a) Innovation partnership zones must have three types of institutions operating within their boundaries, or show evidence of planning and local partnerships that will lead to dense concentrations of these institutions:

(i) Research capacity in the form of a university or community college fostering commercially valuable research, nonprofit institutions creating commercially applicable innovations, or a national laboratory;

(ii) Dense proximity of globally competitive firms in a research-based industry or industries or of individual firms with innovation strategies linked to (a)(i) of this subsection. A globally competitive firm may be signified through international organization for standardization 9000 or 1400 certification, or other recognized evidence of international success; and

(iii) Training capacity either within the zone or readily accessible to the zone. The training capacity requirement may be met by the same institution as the research capacity requirement, to the extent both are associated with an educational institution in the proposed zone.

(b) The support of a local jurisdiction, a research institution, an educational institution, an industry or cluster association, a workforce development council, and an associate development organization, port, or chamber of commerce;

(c) Identifiable boundaries for the zone within which the applicant will concentrate efforts to connect innovative researchers, entrepreneurs, investors, industry associations or clusters, and training providers. The geographic area defined should lend itself to a distinct identity and have the capacity to accommodate firm growth;

(d) The innovation partnership zone administrator must be an economic development council, port, workforce development council, city, or county.

(2) On October 1st of each year, the director shall designate innovation partnership zones on the basis of applications that meet the legislative criteria, estimated economic impact of the zone, evidence of forward planning for the zone, and other criteria as recommended by the Washington state economic development commission. Estimated economic impact must include evidence of anticipated private investment, job creation, innovation, and commercialization. The director shall require evidence that zone applicants will promote commercialization, innovation, and collaboration among zone residents.

(3) Innovation partnership zones are eligible for funds and other resources as provided by the legislature or at the discretion of the governor.

(4) If the innovation partnership zone meets the other requirements of the fund sources, then the zone is eligible for the following funds relating to:

(a) The local infrastructure financing tools program;

(b) The sales and use tax for public facilities in rural counties; and

(c) Job skills.

(5) An innovation partnership zone shall be designated as a zone for a four-year period. At the end of the four-year period, the zone must reapply for the designation through the department.

(6) The department shall convene annual information sharing events for innovation partnership zone administrators and other interested parties.

(7) An innovation partnership zone shall provide performance measures as required by the director, including but not limited to private investment measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation. The Washington state economic development commission shall review annually the individual innovation partnership zone's performance measures and make recommendations to the department regarding additional zone designation criteria.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The Washington state economic development commission shall, with the advice of an innovation partnership advisory group selected by the commission, have oversight responsibility for the implementation of the state's efforts to further innovation partnerships throughout the state. The commission shall:

(a) Provide information and advice to the department of community, trade, and economic development to assist in the implementation of the innovation partnership zone program, including criteria to be used in the selection of grant applicants for funding;

(b) Document clusters of companies throughout the state that have comparative competitive advantage or the potential for comparative competitive advantage, using the process and criteria for identifying strategic clusters developed by the working group specified in subsection (2) of this section;

(c) Conduct an innovation opportunity analysis to identify (i) the strongest current intellectual assets and research teams in the state focused on emerging technologies and their commercialization, and (ii) faculty and researchers that could increase their focus on commercialization of technology if provided the appropriate technical assistance and resources;

(d) Based on its findings and analysis, and in conjunction with the higher education coordinating board and research institutions:

(i) Develop a plan to build on existing, and develop new, intellectual assets and innovation research teams in the state in research areas where there is a high potential to commercialize technologies. The commission shall present the plan to the governor and legislature by December 31, 2007. The higher education coordinating board shall be responsible for implementing the plan in conjunction with the publicly funded research institutions in the state. The plan shall address the following elements and such other elements as the commission deems important:

(A) Specific mechanisms to support, enhance, or develop innovation research teams and strengthen their research and commercialization capacity in areas identified as useful to strategic clusters and innovative firms in the state;

(B) Identification of the funding necessary for laboratory infrastructure needed to house innovation research teams;

(C) Specification of the most promising research areas meriting enhanced resources and recruitment of significant entrepreneurial researchers to join or lead innovation research teams;

(D) The most productive approaches to take in the recruitment, in the identified promising research areas, of a minimum of ten significant entrepreneurial researchers over the next ten years to join or lead innovation research teams;

(E) Steps to take in solicitation of private sector support for the recruitment of entrepreneurial researchers and the commercialization activity of innovation research teams; and

(F) Mechanisms for ensuring the location of innovation research teams in innovation partnership zones;

(ii) Provide direction for the development of comprehensive entrepreneurial assistance programs at research institutions. The programs may involve multidisciplinary students, faculty, entrepreneurial researchers, entrepreneurs, and investors in building business models and evolving business plans around innovative ideas. The programs may provide technical assistance and the support of an entrepreneur-in-residence to innovation research teams and offer entrepreneurial training to faculty, researchers, undergraduates, and graduate students. Curriculum leading to a certificate in entrepreneurship may also be offered;

(e) Develop performance measures to be used in evaluating the performance of innovation research teams, the implementation of the plan and programs under (d)(i) and (ii) of this subsection, and the performance of innovation partnership zone grant recipients, including but not limited to private investment measures, business initiation measures, job creation measures, and measures of innovation such as licensing of ideas in research institutions, patents, or other recognized measures of innovation. The performance measures developed shall be consistent with the economic development commission's comprehensive plan for economic development and its standards and metrics for program evaluation. The commission shall report to the legislature and the governor by December 31, 2008, on the measures developed; and

(f) Using the performance measures developed, perform a biennial assessment and report, the first of which shall be due December 31, 2012, on:

(i) Commercialization of technologies developed at state universities, found at other research institutions in the state, and facilitated with public assistance at existing companies;

(ii) Outcomes of the funding of innovation research teams and recruitment of significant entrepreneurial researchers;

(iii) Comparison with other states of Washington's outcomes from the innovation research teams and efforts to recruit significant entrepreneurial researchers; and

(iv) Outcomes of the grants for innovation partnership zones.

The report shall include recommendations for modifications of this act and of state commercialization efforts that would enhance the state's economic competitiveness.

(2) The economic development commission and the workforce training and education coordinating board shall jointly convene a working group to:

(a) Specify the process and criteria for identification of substate geographic concentrations of firms or employment in an industry and the industry's customers, suppliers, supporting businesses, and institutions, which process will include the use of labor market information from the employment security department and local labor markets; and

(b) Establish criteria for identifying strategic clusters which are important to economic prosperity in the state, considering cluster size, growth rate, and wage levels among other factors."

Senators Kastama and Zarelli spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama and Zarelli to Substitute House Bill No. 1091.

The motion by Senator Kastama 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 "zones;" strike the remainder of the title and insert "and adding new sections to chapter 43.330 RCW."

MOTION

On motion of Senator Kastama, the rules were suspended, Substitute House Bill No. 1091 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. 1091 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1091 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; 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, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Absent: Senator Rockefeller - 1

SUBSTITUTE HOUSE BILL NO. 1091 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1266 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Prentice moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1266.

The President declared the question before the Senate to be motion by Senator Prentice that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 1266.

The motion by Senator Prentice carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 1266.

MOTION

On motion of Senator Prentice, the rules were suspended and Substitute House Bill No. 1266 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1266, by House Committee on Appropriations (originally sponsored by Representatives Conway, Fromhold, B. Sullivan, Kenney, Ericks, Simpson and Moeller)

Determining death benefits for public employees. Revised for 1st Substitute: Addressing death benefits for public employees.

The measure was read the second time.

MOTION

Senator Prentice moved that the following striking amendment by Senator Clements and others be adopted:

On page 5, after line 14, insert the following:

"**Sec. 8.** RCW 41.40.700 and 2003 c 155 s 7 are each amended to read as follows:

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse as if in fact such spouse had been nominated by written designation, or if there be no such surviving spouse, then to such member's legal representatives.

(2) If a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse or eligible child or children shall elect to receive ((~~either~~)) one of the following:

(a) A retirement allowance computed as provided for in RCW 41.40.630, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and one hundred percent survivor option under RCW 41.40.660 and, except under subsection (4) of this section, if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.40.630; if a surviving spouse who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse and member were equal at the time of the member's death; ((~~or~~))

(b) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(c) For a member who leaves the employ of an employer to enter the uniformed services of the United States and who dies after January 1, 2007, while honorably serving in the uniformed services of the United States in Operation Enduring Freedom or Persian Gulf, Operation Iraqi Freedom, an amount equal to two hundred percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To a person or persons, estate, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) A member who is killed in the course of employment, as determined by the director of the department of labor and industries, is not subject to an actuarial reduction under RCW 41.40.630. The member's retirement allowance is computed under RCW 41.40.620."

Renumber the sections consecutively and correct any internal references accordingly.

Senator Prentice 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 Clements and others to Substitute House Bill No. 1266.

The motion by Senator Prentice 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 3 of the title, after "41.40.0932,", insert "41.40.700,"

MOTION

On motion of Senator Prentice, the rules were suspended, Substitute House Bill No. 1266 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 Prentice and Clements spoke in favor of passage of the bill.

MOTION

On motion of Senator Regala, Senators Brown, McAuliffe and Tom were excused.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1266 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1266 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, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 46

Excused: Senators Brown, McAuliffe and Tom - 3

SUBSTITUTE HOUSE BILL NO. 1266 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 20, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1624 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1624.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate recede from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1624.

The motion by Senator Hargrove carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Substitute House Bill No. 1624.

MOTION

On motion of Senator Hargrove, the rules were suspended and Engrossed Substitute House Bill No. 1624 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1624, by House Committee on Early Learning & Children's Services (originally sponsored by Representatives Kagi, Walsh, Appleton, Roberts and Haigh)

Reinstating parental rights for adolescents who are in state care and have not been adopted and providing immunity for department of social and health services representatives.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following striking amendment by Senator Hargrove and others be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 13.34 RCW to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c) The child has not achieved his or her permanency plan within three years of a final order of termination, or if the final order was appealed, within three years of exhaustion of any right to appeal the order terminating parental rights; and

(d) Absent good cause, the child must be at least twelve years old at the time the petition is filed.

(2) A child seeking to petition under this section shall be provided counsel at no cost to the child.

(3) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

(4) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, it appears that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

(5) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department, the child's attorney, and the child. The court shall also order the department to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(6) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(7) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department shall provide the court, and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

(8)(a) If the court conditionally grants the petition under subsection (6) of this section, the case will be continued for six months. During this period, the child shall be placed in the custody of the parent. The department shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

(9) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

(10) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 for the time period from the date of termination of parental rights to the date parental rights are reinstated.

(11) A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child. This reinstatement is a recognition that the situation of the parent and child have changed since the time of the termination of parental rights and reunification is now appropriate.

(12) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

Sec. 2. RCW 13.34.200 and 2003 c 227 s 7 are each amended to read as follows:

(1) Upon the termination of parental rights pursuant to RCW 13.34.180, all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support existing between the child and parent shall be severed and terminated and the parent shall have no standing to appear at any further legal proceedings concerning the child, except as provided in section 1 of this act: PROVIDED, That any support obligation existing prior to the effective date of the order terminating parental rights shall not be severed or terminated. The rights of one parent may be terminated without affecting the rights of the other parent and the order shall so state.

(2) An order terminating the parent and child relationship shall not disentitle a child to any benefit due the child from any third person, agency, state, or the United States, nor shall any action under this chapter be deemed to affect any rights and benefits that an Indian child derives from the child's descent from a member of a federally recognized Indian tribe.

(3) An order terminating the parent-child relationship shall include a statement addressing the status of the child's sibling relationships and the nature and extent of sibling placement, contact, or visits.

Sec. 3. RCW 13.34.060 and 2002 c 52 s 4 are each amended to read as follows:

(1) A child taken into custody pursuant to RCW 13.34.050 or 26.44.050 shall be immediately placed in shelter care. A child taken by a relative of the child in violation of RCW 9A.40.060 or 9A.40.070 shall be placed in shelter care only when permitted under RCW 13.34.055. No child may be held longer than seventy-two hours, excluding Saturdays, Sundays, and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. In no case may a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention facility.

((~~(a)~~)) (2) Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered, priority placement for a child in shelter care, pending a court hearing, shall be with any person described in RCW 74.15.020(2)(a) or 13.34.130(1)(b). The person must be willing and available to care for the child and be able to meet any special needs of the child and the court must find that such placement is in the best interests of the child. The person must be willing to facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court. If a child is not initially placed with a relative or other suitable person requested by the parent pursuant to this section, the supervising agency shall make an effort within available resources to place the child with a relative or other suitable person requested by the parent on the next business day after the child is taken into custody. The supervising agency shall document its effort to place the child with a relative or other suitable person requested by the parent pursuant to this section. Nothing within this subsection ((~~(1)(a)~~)) (2) establishes an entitlement to services or a right to a particular placement.

((~~(b)~~)) (3) Whenever a child is taken into custody pursuant to this section, the supervising agency may authorize evaluations of the child's physical or emotional condition, routine medical and dental examination and care, and all necessary emergency care. ((~~In no case may a child who is taken into custody pursuant to RCW 13.34.055, 13.34.050, or 26.44.050 be detained in a secure detention facility. No child may be held longer than seventy-two hours, excluding Saturdays, Sundays and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. The child and his or her parent, guardian, or custodian shall be informed that they have a right to a shelter care hearing. The court shall hold a shelter care hearing within seventy-two hours after the child is taken into custody, excluding Saturdays, Sundays, and holidays. If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary.~~

~~(2) Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make reasonable efforts to inform the parents, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title as soon as possible and in no event shall notice be provided more than twenty-four hours after the child has been taken into custody or twenty-four hours after child protective services has been notified that the child has been taken into custody. The notice of custody and rights may be given by any means reasonably certain of notifying the parents including, but not limited to, written, telephone, or in person oral notification. If the initial notification is provided by a means other than writing, child protective services shall make reasonable efforts to also provide written notification.~~))

Sec. 4. RCW 13.34.062 and 2004 c 147 s 2 are each amended to read as follows:

(1)(a) Whenever a child is taken into custody by child protective services pursuant to a court order issued under RCW 13.34.050 or when child protective services is notified that a child has been taken into custody pursuant to RCW 26.44.050 or 26.44.056, child protective services shall make reasonable efforts to inform the parent, guardian, or legal custodian of the fact that the child has been taken into custody, the reasons why the child was taken into custody, and their legal rights under this title, including the right to a shelter care hearing, as soon as possible. Notice must be provided in an understandable manner and take into consideration the parent's, guardian's, or legal custodian's primary language, level of education, and cultural issues.

(b) In no event shall the notice required by this section be provided to the parent, guardian, or legal custodian more than twenty-four hours after the child has been taken into custody or twenty-four hours after child protective services has been notified that the child has been taken into custody.

(2)(a) The notice of custody and rights may be given by any means reasonably certain of notifying the parents including, but not limited to, written, telephone, or in person oral notification. If the initial notification is provided by a means other than writing, child protective services shall make reasonable efforts to also provide written notification.

(b) The written notice of custody and rights required by ((~~RCW 13.34.060~~)) this section shall be in substantially the following form:

"NOTICE

Your child has been placed in temporary custody under the supervision of Child Protective Services (or other person or agency). You have important legal rights and you must take steps to protect your interests.

1. A court hearing will be held before a judge within 72 hours of the time your child is taken into custody excluding Saturdays, Sundays, and holidays. You should call the court at (insert appropriate phone number here) for specific information about the date, time, and location of the court hearing.

2. You have the right to have a lawyer represent you at the hearing. Your right to representation continues after the shelter care hearing. You have the right to records the department intends to rely upon. A lawyer can look at the files in your case, talk to child protective services and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

4. If your hearing occurs before a court commissioner, you have the right to have the decision of the court commissioner reviewed by a superior court judge. To obtain that review, you must, within ten days after the entry of the decision of the court commissioner, file with the court a motion for revision of the decision, as provided in RCW 2.24.050.

You should be present at any shelter care hearing. If you do not come, the judge will not hear what you have to say.

You may call the Child Protective Services' caseworker for more information about your child. The caseworker's name and telephone number are: (insert name and telephone number).

5. You have a right to a case conference to develop a written service agreement following the shelter care hearing. The service agreement may not conflict with the court's order of shelter care. You may request that a multidisciplinary team, family group conference, or prognostic staffing be convened for your child's case. You may participate in these processes with your counsel present."

Upon receipt of the written notice, the parent, guardian, or legal custodian shall acknowledge such notice by signing a receipt prepared by child protective services. If the parent, guardian, or legal custodian does not sign the receipt, the reason for lack of a signature shall be written on the receipt. The receipt shall be made a part of the court's file in the dependency action.

If after making reasonable efforts to provide notification, child protective services is unable to determine the whereabouts of the parents, guardian, or legal custodian, the notice shall be delivered or sent to the last known address of the parent, guardian, or legal custodian.

((~~(2)~~)) (3) If child protective services is not required to give notice under ((~~RCW 13.34.060(2) and subsection (1) of~~)) this section, the juvenile court counselor assigned to the matter shall make all reasonable efforts to advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in RCW 13.34.090.

((~~(3)~~)) (4) Reasonable efforts to advise and to give notice, as required in ((~~RCW 13.34.060(2) and subsections (1) and (2) of~~)) this section, shall include, at a minimum, investigation of the whereabouts of the parent, guardian, or legal custodian. If such reasonable efforts are not successful, or the parent, guardian, or legal custodian does not appear at the shelter care hearing, the petitioner shall testify at the hearing or state in a declaration:

(a) The efforts made to investigate the whereabouts of, and to advise, the parent, guardian, or legal custodian; and

(b) Whether actual advice of rights was made, to whom it was made, and how it was made, including the substance of any oral communication or copies of written materials used.

(((~~(4) The court shall hear evidence regarding notice given to, and efforts to notify, the parent, guardian, or legal custodian and shall examine the need for shelter care. The court shall hear evidence regarding the efforts made to place the child with a relative. The court shall make an express finding as to whether the notice required under RCW 13.34.060(2) and subsections (1) and (2) of this section was given to the parent, guardian, or legal custodian. All parties have the right to present testimony to the court regarding the need or lack of need for shelter care. Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.~~

~~(5)(a) A shelter care order issued pursuant to RCW 13.34.065 shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.~~

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

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

~~(6) A shelter care order issued pursuant to RCW 13.34.065 may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.~~

~~(7) Any parent, guardian, or legal custodian who for good cause is unable to attend the initial shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.~~))

Sec. 5. RCW 13.34.065 and 2001 c 332 s 3 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Whether restraining orders, or orders expelling an allegedly abusive parent from the home, will allow the child to safely remain in the home;

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

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

((~~(2)~~)) (5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

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

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

((~~(ii)~~)) (B) The release of such child would present a serious threat of substantial harm to such child; or

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

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, and the child was initially placed with a relative pursuant to RCW 13.34.060(1), the court shall order continued placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

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

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

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

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

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. ((~~The court shall enter a finding as to whether RCW 13.34.060(2) and subsections (1) and (2) of this section have been complied with. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090.~~

~~(3)~~)) If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

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

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

the court shall not include the requirement for the case conference in the shelter care order.

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

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

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

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

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

((~~(4)~~)) (8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

((~~(5)~~)) (b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

Sec. 6. RCW 13.34.130 and 2003 c 227 s 3 are each amended to read as follows:

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

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

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

(b) Order the child to be removed from his or her home and into the custody, control, and care of a relative or the department or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is: (i) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; and (ii) willing and available to care for the child.

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

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

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

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

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

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

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

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

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

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

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

((~~(5)~~)) (6) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

Sec. 7. RCW 13.34.136 and 2004 c 146 s 1 are each amended to read as follows:

(1) ((~~Whenever a child is ordered removed from the child's home,~~)) A permanency plan shall be developed no later than sixty days from the time the supervising agency assumes

responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency ((~~charged with his or her care shall provide the court with~~)) supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the supervising agency's proposed permanency plan must be provided to the supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130(4), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the agency will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(ii) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The agency shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. The court and the agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department.

(v) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vi) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(4), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

((~~(2)~~)) (3) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

((~~(3)~~)) (5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

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

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

Sec. 8. 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~~)). The purpose of the hearing ((~~in which it~~)) shall be ((~~determined~~)) to review the progress of the parties and determine whether court supervision should continue.

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

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145((~~(3)~~)) (1)(a) 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.~~))

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(((~~(2)~~))) (3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

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

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

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

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

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

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

(((~~(3)~~))) (4) The court's ability to order housing assistance under RCW 13.34.130 and this section is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b) subject to the availability of funds appropriated for this specific purpose.

(((~~(4)~~))) (5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3).

Sec. 9. RCW 13.34.145 and 2003 c 227 s 6 are each amended to read as follows:

(1) ((~~A permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.~~

~~(a) Whenever a child is placed in out-of-home care pursuant to RCW 13.34.130, the agency that has custody of the child shall provide the court with a written permanency plan of care directed towards securing a safe, stable, and permanent home for the child as soon as possible. The plan shall identify one of the following outcomes as the primary goal and may also identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; a responsible living skills program; and independent living, if appropriate and if the child is age sixteen or older and the provisions of subsection (2) of this section are met.~~

~~(b) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.~~

~~(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.~~

~~(d) For purposes related to permanency planning:~~

~~(i) "Guardianship" means a dependency guardianship, a legal guardianship pursuant to chapter 11.88 RCW, or~~

~~equivalent laws of another state or a federally recognized Indian tribe.~~

~~(ii) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.~~

~~(iii) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or of a federally recognized Indian tribe.~~

~~(2) Whenever a permanency plan identifies independent living as a goal, the plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living. Before the court approves independent living as a permanency plan of care, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs. The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.~~

~~(3)~~))) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(((~~(4)~~))) (b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in ((~~subsection (3) of~~)) this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed.

(((~~(5)~~))) (c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(((~~(6)~~))) (3) At the permanency planning hearing, the court shall ((~~enter findings as required by RCW 13.34.138 and shall review the permanency plan prepared by the agency~~)) conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280 and 13.34.138. ((~~If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate. In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal.~~))

(4) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

((~~(7)~~)) (5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

(10) ((~~Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.~~

~~(11) Except as provided in RCW 13.34.235, the status of all dependent children shall continue to be reviewed by the court at least once every six months, in accordance with RCW 13.34.138, until the dependency is dismissed. Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.~~

~~(12)~~)) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

((~~(13)~~)) (11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

((~~(14)~~)) (12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

Sec. 10. RCW 74.13.031 and 2006 c 266 s 1 and 2006 c 221 s 3 are each reenacted and amended to read as follows:

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

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

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

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

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

(5) Monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010, and annually submit a report measuring the extent to which the department achieved the specified goals to the governor and the legislature.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

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

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

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

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

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

(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen

to remain in foster care or group care as provided in (b)(i) of this subsection.

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

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

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

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

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

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

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

NEW SECTION. **Sec. 11.** (1) The secretary of the department of social and health services shall work in conjunction with the University of Washington to study the need for and the feasibility of creating tiered classifications for foster parent licensing, including a professional foster parent classification. The secretary of the department of social and health services and the dean of the school of social work, or his or her designee, at the University of Washington jointly shall facilitate a work group composed of: (a) The president of the senate shall appoint two members from each of the two largest caucuses of the senate; and the speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives; (b) four foster parents, including two representatives from the foster parent association of Washington state; (c) the director of the institute for children and families at the University of Washington; (d) a representative of the Washington federation of state employees; and (e) four or more child welfare professionals with subject matter expertise from the public, private, or academic communities.

(2) To promote the exchange of ideas and collaboration, the secretary and the director also shall convene at least two focused stakeholder meetings seeking input from a broad range of foster parents, social workers, and community members. To facilitate the exchange of ideas, the department of social and health services shall provide to the work group the contact information for licensed foster parents for the sole purpose of communicating with foster parents regarding issues relevant to foster parents. The work group shall keep the contact information confidential and shall develop guidelines for the use and maintenance of this contact information among work group members.

(3) The secretary of the department of social and health services and the dean of the school of social work, or his or her designee, at the University of Washington shall report the recommendations of the work group to the appropriate committees of the legislature by January 1, 2008.

NEW SECTION. **Sec. 12.** Section 11 of this act expires January 1, 2008.

NEW SECTION. **Sec. 13.** 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."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Hargrove and others to Engrossed Substitute House Bill No. 1624.

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

MOTION

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

On page 1, line 1 of the title, after "welfare;" strike the remainder of the title and insert "amending RCW 13.34.200, 13.34.060, 13.34.062, 13.34.065, 13.34.130, 13.34.136, 13.34.138, and 13.34.145; reenacting and amending RCW 74.13.031; adding a new section to chapter 13.34 RCW; creating a new section; and providing an expiration date."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 1624 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 Engrossed Substitute House Bill No. 1624 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1624 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, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 46

Excused: Senators Brown, McAuliffe and Tom - 3

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1624 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 20, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1705 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Marr moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1705.

The President declared the question before the Senate to be motion by Senator Marr that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1705.

The motion by Senator Marr carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1705.

MOTION

On motion of Senator Marr, the rules were suspended and Engrossed Second Substitute House Bill No. 1705 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1705, by House Committee on Finance (originally sponsored by Representatives Barlow, Ormsby, Kenney and Wood)

Creating health sciences and services authorities.

The measure was read the second time.

MOTION

Senator Marr moved that the following striking amendment by Senators Marr and Brown be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means a health sciences and services authority created pursuant to this chapter.

(2) "Board" means the governing board of trustees of an authority.

(3) "Director" means the higher education coordinating board.

(4) "Health sciences and services" means biosciences that advance new therapies and procedures to combat disease and promote public health.

(5) "Local government" means a city, town, or county.

(6) "Sponsoring local government" means a city, town, or county that creates a health sciences and services authority.

NEW SECTION. **Sec. 2.** PURPOSE. The health sciences and services program is created to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health.

NEW SECTION. **Sec. 3.** CREATION. A local government must establish by ordinance or resolution an authority. At a minimum, the ordinance must:

(1) Specify the powers to be exercised by the authority;

(2) Reserve the local government's right to dissolve the authority after its contractual responsibilities have expired;

(3) Establish an administrative board, including: (a) The number of board members; (b) the times and terms of appointment for each board position; (c) the amount of compensation, if any, to be paid to board members; (d) the procedures for removing board members and filing vacancies; and (e) the qualifications for the appointment of individuals to the board;

(4) Establish the authority's boundaries, which must be contiguous tracts of land;

(5) Ensure that private and public funds provided to the authority will be segregated;

(6) Establish guidelines under which the authority may invest its funds;

(7) Provide the requirements for auditing the records of the authority; and

(8) Require the local government's legal counsel to also provide legal services to the authority.

NEW SECTION. **Sec. 4.** APPLICATIONS. (1) The higher education coordinating board may approve applications submitted by local governments for an area's designation as a health sciences and services authority under this chapter. The director shall determine the division to review applications submitted by local governments under this chapter. The application for designation shall be in the form and manner and contain such information as the higher education coordinating board may prescribe, provided the application shall:

(a) Contain sufficient information to enable the director to determine the viability of the proposal;

(b) Demonstrate that an ordinance or resolution has been passed by the legislative authority of a local government that delineates the boundaries of an area that may be designated an authority;

(c) Be submitted on behalf of the local government, or, if that office does not exist, by the legislative body of the local government;

(d) Demonstrate that the public funds directed to programs or facilities in the authority will leverage private sector resources and contributions to activities to be performed;

(e) Provide a plan or plans for the development of the authority as an entity to advance as a cluster for health sciences education, health sciences research, biotechnology development, biotechnology product commercialization, and/or health care services; and

(f) Demonstrate that the state has previously provided funds to health sciences and services programs or facilities in the applicant city, town, or county.

(2) The director shall determine the division to develop criteria to evaluate the application. The criteria shall include:

(a) The presence of infrastructure capable of spurring development of the area as a center of health sciences and services;

(b) The presence of higher education facilities where undergraduate or graduate coursework or research is conducted; and

(c) The presence of facilities in which health services are provided.

(3) There shall be no more than one authority statewide.

(4) An authority may only be created in a county with a population of less than one million persons.

(5) The director may reject or approve an application. When denying an application, the director must specify the application's deficiencies. The decision regarding such designation as it relates to a specific local government is final; however, a rejected application may be resubmitted.

(6) Applications are due by December 31, 2007, and must be processed within sixty days of submission.

(7) The director may, at his or her discretion, amend the boundaries of an authority upon the request of the local government.

(8) The higher education coordinating board may adopt any rules necessary to implement this act within one hundred twenty days of the effective date of this section.

(9) The higher education coordinating board must develop evaluation and performance measures in order to evaluate the effectiveness of the programs in the authorities that are funded with public resources. A report to the legislature shall be due on a biennial basis beginning December 1, 2009. In addition, the higher education coordinating board shall develop evaluation criteria that enables the local governments to measure the effectiveness of the program.

NEW SECTION. **Sec. 5.** BOARD. (1) An authority shall be overseen by a board with not more than fourteen members. The authority board shall select the chair. Board members must have some experience with the mission of the authority. The board members shall be appointed as follows:

(a) The governor shall appoint three members;

(b) The county legislative authority in which the authority resides shall appoint three members;

(c) The mayor of the city in which the authority is created, or the mayor of the largest city within the authority if created by a county, shall appoint three members; and

(d) Up to five additional members may be appointed by the board.

(2) A simple majority of the board members shall constitute a quorum.

(3) The board shall annually elect a secretary and any other officers it deems necessary.

(4) The local government shall designate an individual with financial experience to serve as treasurer. The individual may be a city or county treasurer, city or county auditor, or a private party. If the treasurer is a private party, the local government shall require a bond in an amount and under such terms and conditions as the local government deems necessary to protect the authority. The treasurer shall have the power to create and maintain funds, issue warrants, and invest funds in its possession.

(5) The board may adopt bylaws or rules for their own governance.

(6) Meetings of the board shall be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the chair or when a majority of the board so requests. Meetings of the board may be held at any location and board members may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200.

NEW SECTION. **Sec. 6.** POWERS AND DUTIES. (1) The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers, including the authority may:

(a) Sue and be sued in its own name;

(b) Make and execute agreements, contracts, and other instruments, with any public or private entity or person, in accordance with this chapter;

(c) Employ, contract with, or engage independent counsel, financial advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter;

(d) Establish such special funds, and control deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;

(e) Enter into contracts with public and private entities for research to be conducted in this state;

(f) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(g) Exercise any other power reasonably required to implement the purposes of this chapter; and

(h) Hire staff and pay administrative costs; however, such expenses shall be paid from moneys provided by the sponsoring local government and moneys received from gifts, grants, and bequests and the interest earned on the authority's accounts and investments.

(2) In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

(a) Use the authority's public moneys, leveraging those moneys with amounts received from other public and private sources in accordance with contribution agreements, to promote bioscience-based economic development, and to advance new therapies and procedures to combat disease and promote public health;

(b) Solicit and receive gifts, grants, and bequests, and enter into contribution agreements with private entities and public entities to receive moneys in consideration of the authority's promise to leverage those moneys with the revenue generated by the tax authorized under section 11 of this act and contributions from other public entities and private entities, in order to use those moneys to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health;

(c) Hold funds received by the authority in trust for their use pursuant to this chapter to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health;

(d) Manage its funds, obligations, and investments as necessary and consistent with its purpose, including the segregation of revenues into separate funds and accounts;

(e) Make grants to entities pursuant to contract to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health. Grant agreements shall specify the deliverables to be provided by the recipient pursuant to the grant. Grants to private entities may only be provided under a contractual agreement that ensures the state will receive appropriate consideration, such as an assurance of job creation or retention, or the delivery of services that provide for the public health, safety, and welfare. The authority shall solicit requests for funding and evaluate the requests by reference to factors such as: (i) The quality of the proposed research; (ii) its potential to improve health outcomes, with particular attention to the likelihood that it will also lower health care costs, substitute for a more costly diagnostic or treatment modality, or offer a breakthrough treatment for a particular disease or condition; (iii) its potential to leverage additional funding; (iv) its potential to provide health care benefits; (v) its potential to stimulate employment; and (vi) evidence of public and private collaboration;

(f) Create one or more advisory boards composed of scientists, industrialists, and others familiar with health sciences and services; and

(g) Adopt policies and procedures to facilitate the orderly process of grant application, review, and reward.

(3) The records of the authority shall be subject to audit by the office of the state auditor.

NEW SECTION. **Sec. 7.** GENERAL INDEBTEDNESS--GENERAL OBLIGATION BONDS. (1) A local government that creates a health sciences and services authority may incur general indebtedness, and issue general obligation bonds, to finance the grants and other programs and retire the indebtedness in whole or in part from the funds distributed pursuant to section 11 of this act and subject to the following requirements:

(a) The ordinance adopted by the local government creating the authority and authorizing the use of the excise tax in section 11 of this act indicates an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated; and

(b) The local government includes this statement of the intent in all notices.

(2) The general indebtedness incurred under this section may be payable from other tax revenues, the full faith and credit of the sponsoring local government, and nontax income, revenues, fees, and rents from the public improvements, as well as contributions, grants, and nontax money available to the local government for payment of costs of the grants and other programs or associated debt service on the general indebtedness.

NEW SECTION. **Sec. 8.** LIMITATION ON BONDS ISSUED. The bonds issued by a local government under section 7 of this act shall not constitute an obligation of the state of Washington, either general or special.

NEW SECTION. **Sec. 9.** LIABILITY. (1) Members of the board, as well as other persons acting on behalf of the authority, while acting within the scope of their employment or agency, shall not be subject to personal liability resulting from their official duties conferred on them under this chapter.

(2) The state, the local government that created the authority, and the authority shall not be liable for any loss, damage, harm, or other consequences resulting directly or indirectly from grants provided by the authority or from programs, services, research, or other activities funded with such grants.

NEW SECTION. **Sec. 10.** DISSOLUTION. The board may petition the sponsoring local government to be dissolved upon a showing that it has no reason to exist and that any assets it retains must be returned to the state treasurer.

NEW SECTION. **Sec. 11.** A new section is added to chapter 82.14 RCW to read as follows:

(1) The legislative authority of a local jurisdiction that has created a health sciences and services authority under section 3 of this act may impose a sales and use tax in accordance with the terms of this chapter. 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 local jurisdiction. The rate of the tax shall not exceed 0.020 percent of the selling price in the case of a sales tax or the value of the article used in the case of a use tax.

(2) The tax imposed under subsection (1) of this section shall be deducted from the amount of tax otherwise required to be collected or paid over to the department under chapter 82.08 or 82.12 RCW. The department of revenue shall perform the collection of the tax on behalf of the authority at no cost to the authority.

(3) The amounts received under this section may only be used in accordance with section 6 of this act or to finance and retire the indebtedness incurred pursuant to section 7 of this act, in whole or in part.

(4) This section expires January 1, 2023.

Sec. 12. RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c 338 s 5, 2006 c 302 s 12, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c 171 s 8 are each reenacted and amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 15.110, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Financial or proprietary information supplied to the liquor control board including the amount of beer or wine sold by a domestic winery, brewery, microbrewery, or certificate of approval holder under RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or wine purchased by a retail licensee in connection with a retail licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of shipments of beer or wine.

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of community, trade, and economic development based on information as described in

(a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085; ((~~and~~))

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit((~~.~~));

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 are subject to RCW 42.56.610 and 90.64.190; and

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under sections 1 through 6 of this act, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information.

Sec. 13. RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c 338 s 5, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c 171 s 8 are each reenacted and amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 15.110, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;

(12)(a) When supplied to and in the records of the department of community, trade, and economic development:

(i) Financial and proprietary information collected from any person and provided to the department of community, trade, and economic development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

(ii) Financial or proprietary information collected from any person and provided to the department of community, trade, and economic development or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of community, trade, and economic development based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of community, trade, and economic development from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form

that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085; ((~~and~~))

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit((~~.~~));

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190; and

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under sections 1 through 6 of this act, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information.

NEW SECTION. **Sec. 14.** CAPTIONS. Captions used in this act are not any part of the law.

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

NEW SECTION. **Sec. 16.** CODIFICATION. Sections 1 through 10 of this act constitute a new chapter in Title 35 RCW.

NEW SECTION. **Sec. 17.** EXPIRATION DATE. Section 12 of this act expires June 30, 2008.

NEW SECTION. **Sec. 18.** EFFECTIVE DATE. Section 13 of this act takes effect June 30, 2008."

Senator Marr spoke in favor of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Marr and Brown to Engrossed Second Substitute House Bill No. 1705.

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

MOTION

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

On page 1, line 2 of the title, after "authorities;" strike the remainder of the title and insert "reenacting and amending RCW 42.56.270 and 42.56.270; adding a new section to chapter 82.14 RCW; adding a new chapter to Title 35 RCW; creating a new section; providing an effective date; and providing expiration dates."

MOTION

On motion of Senator Marr, the rules were suspended, Engrossed Second Substitute House Bill No. 1705 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 Marr 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. 1705 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1705 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, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 46

Excused: Senators Brown, McAuliffe and Tom - 3

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1705 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED HOUSE BILL NO. 2388 and asks Senate to recede therefrom.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hatfield moved that the Senate recede from its position in the Senate amendment(s) to Engrossed House Bill No. 2388.

The President declared the question before the Senate to be motion by Senator Hatfield that the Senate recede from its position in the Senate amendment(s) to Engrossed House Bill No. 2388.

The motion by Senator Hatfield carried and the Senate receded from its position in the Senate amendment(s) to Engrossed House Bill No. 2388.

MOTION

On motion of Senator Hatfield, the rules were suspended and Engrossed House Bill No. 2388 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED HOUSE BILL NO. 2388, by Representatives Alexander, P. Sullivan and Hunter

Financing regional centers with seating capacities less than ten thousand that are acquired, constructed, financed, or owned by a public facilities district.

The measure was read the second time.

MOTION

Senator Hatfield moved that the following striking amendment by Senator Hatfield and others be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.57.010 and 2002 c 363 s 1 are each amended to read as follows:

(1)(a) The legislative authority of any town or city located in a county with a population of less than one million may create a public facilities district.

(b) The legislative authorities of any contiguous group of towns or cities located in a county or counties each with a population of less than one million may enter an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(c) The legislative authority of any town or city, or any contiguous group of towns or cities, located in a county with a population of less than one million and the legislative authority of a contiguous county, or the legislative authority of the county or counties in which the towns or cities are located, may enter into an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(d) The legislative authority of a city located in a county with a population greater than one million may create a public facilities district, when the city has a total population of less than one hundred fifteen thousand but greater than eighty thousand and commences construction of a regional center prior to July 1, 2008.

(2)(a) A public facilities district shall be coextensive with the boundaries of the city or town or contiguous group of cities or towns that created the district.

(b) A public facilities district created by an agreement between a town or city, or a contiguous group of towns or cities, and a contiguous county or the county in which they are located, shall be coextensive with the boundaries of the towns or cities, and the boundaries of the county or counties as to the unincorporated areas of the county or counties. The boundaries shall not include incorporated towns or cities that are not parties to the agreement for the creation and joint operation of the district.

(3)(a) A public facilities district created by a single city or town shall be governed by a board of directors consisting of five members selected as follows: (i) Two members appointed by the legislative authority of the city or town; and (ii) three members appointed by legislative authority based on recommendations from local organizations. The members appointed under (a)(i) of this subsection, shall not be members of the legislative authority of the city or town. The members appointed under (a)(ii) of this subsection, shall be based on recommendations received from local organizations that may include, but are not limited to the local chamber of commerce, local economic development council, and local labor council. The members shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(b) A public facilities district created by a contiguous group of cities and towns shall be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities and towns; and (ii) four members appointed by the legislative authority based on recommendations from local organizations. The members appointed under (b)(i) of this subsection shall not be members of the legislative authorities of the cities and towns. The members appointed under (b)(ii) of this subsection, shall be based on recommendations received from local organizations that include, but are not limited to the local chamber of commerce, local economic development council, local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors shall be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(c) A public facilities district created by a town or city, or a contiguous group of towns or cities, and a contiguous county or the county or counties in which they are located, shall be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities, towns, and county; and (ii) four members appointed by the legislative authority based on recommendations from local organizations. The members appointed under (c)(i) of this subsection shall not be members of the legislative authorities of the cities, towns, or county. The members appointed under (c)(ii) of this subsection shall be based on recommendations received from local organizations that include, but are not limited to, the local chamber of commerce, the local economic development council, the local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors shall be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(4) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(5) A public facilities district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale. No direct or collateral attack on any public facilities district purported to be authorized or created in conformance with this chapter may be commenced more than thirty days after creation by the city and/or county legislative authority.

Sec. 2. RCW 82.14.390 and 2006 c 298 s 1 are each amended to read as follows:

(1) Except as provided in subsection (6) of this section, the governing body of a public facilities district (a) created before July 31, 2002, under chapter 35.57 or 36.100 RCW that commences construction of a new regional center, or improvement or rehabilitation of an existing new regional center, before January 1, 2004((~~, or~~)); (b) created before July 1, 2006, under chapter 35.57 RCW in a county or counties in which there are no other public facilities districts on June 7, 2006, and in which the total population in the public facilities district is greater than ninety thousand that commences construction of a new regional center before February 1, 2007; (c) created under the authority of RCW 35.57.010(1)(d); or (d) created before September 1, 2007, under chapter 35.57 or 36.100 RCW, in a county or counties in which there are no other public facilities districts on the effective date of this act, and in which the total population in the public facilities district is greater than seventy thousand, that commences construction of a new regional center before January 1, 2009, may impose a sales and use tax in accordance with the terms of this chapter. 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 public facilities district. The rate of tax shall not exceed 0.033 percent of the selling price in the case of a sales tax or value of the article used in the case of a use tax.

(2) The tax imposed under subsection (1) of this section shall be deducted from the amount of tax otherwise required to

be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue shall perform the collection of such taxes on behalf of the county at no cost to the public facilities district.

(3) No tax may be collected under this section before August 1, 2000. The tax imposed in this section shall expire when the bonds issued for the construction of the regional center and related parking facilities are retired, but not more than twenty-five years after the tax is first collected.

(4) Moneys collected under this section shall only be used for the purposes set forth in RCW 35.57.020 and must be matched with an amount from other public or private sources equal to thirty-three percent of the amount collected under this section, provided that amounts generated from nonvoter approved taxes authorized under chapter 35.57 RCW or nonvoter approved taxes authorized under chapter 36.100 RCW shall not constitute a public or private source. For the purpose of this section, public or private sources includes, but is not limited to cash or in-kind contributions used in all phases of the development or improvement of the regional center, land that is donated and used for the siting of the regional center, cash or in-kind contributions from public or private foundations, or amounts attributed to private sector partners as part of a public and private partnership agreement negotiated by the public facilities district.

(5) The combined total tax levied under this section shall not be greater than 0.033 percent. If both a public facilities district created under chapter 35.57 RCW and a public facilities district created under chapter 36.100 RCW impose a tax under this section, the tax imposed by a public facilities district created under chapter 35.57 RCW shall be credited against the tax imposed by a public facilities district created under chapter 36.100 RCW.

(6) A public facilities district created under chapter 36.100 RCW is not eligible to impose the tax under this section if the legislative authority of the county where the public facilities district is located has imposed a sales and use tax under RCW 82.14.0485 or 82.14.0494.

NEW SECTION. **Sec. 3.** A new section is added to chapter 82.14 RCW to read as follows:

(1) In a county with a population under three hundred thousand, the governing body of a public facilities district, which is created before August 1, 2001, under chapter 35.57 RCW or before January 1, 2000, under chapter 36.100 RCW, in which the total population in the public facilities district is greater than ninety thousand and less than one hundred thousand that commences improvement or rehabilitation of an existing regional center, to be used for community events, and artistic, musical, theatrical, or other cultural exhibitions, presentations, or performances and having two thousand or fewer permanent seats, before January 1, 2009, may impose a sales and use tax in accordance with the terms of this chapter. 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 public facilities district. The rate of tax for a public facilities district created prior to August 1, 2001, under chapter 35.57 RCW, may not exceed 0.025 percent of the selling price in the case of a sales tax or value of the article used in the case of a use tax. The rate of tax, for a public facilities district created prior to January 1, 2000, under chapter 36.100 RCW, may not exceed 0.020 percent of the selling price in the case of a sales tax or the value of the article used in the case of a use tax.

(2) The tax imposed under subsection (1) of this section shall be deducted from the amount of tax otherwise required to be collected or paid over to the department under chapter 82.08 or 82.12 RCW. The department shall perform the collection of such taxes on behalf of the county at no cost to the public facilities district.

(3) The tax imposed in this section shall expire when the bonds issued for the construction of the regional center and related parking facilities are retired, but not more than twenty-five years after the tax is first collected.

(4) Moneys collected under this section shall only be used for the purposes set forth in RCW 35.57.020 and must be matched with an amount from other public or private sources equal to thirty-three percent of the amount collected under this section, provided that amounts generated from nonvoter-approved taxes authorized under chapter 35.57 RCW may not constitute a public or private source. For the purpose of this section, public or private sources include, but are not limited to cash or in-kind contributions used in all phases of the development or improvement of the regional center, land that is donated and used for the siting of the regional center, cash or in-kind contributions from public or private foundations, or amounts attributed to private sector partners as part of a public and private partnership agreement negotiated by the public facilities district."

Senators Hatfield and Eide 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 Hatfield and others to Engrossed House Bill No. 2388.

The motion by Senator Hatfield 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 3 of the title, after "district;" strike the remainder of the title and insert "amending RCW 35.57.010 and 82.14.390; and adding a new section to chapter 82.14 RCW."

MOTION

On motion of Senator Hatfield, the rules were suspended, Engrossed House Bill No. 2388 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 Hatfield and Swecker 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. 2388 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2388 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 4; Absent, 0; Excused, 3.

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, McCaslin, Morton, Murray, Oemig, Parlette, Poulsen, Prentice, Pridemore, Rasmussen, Roach, Rockefeller, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 42

Voting nay: Senators Fairley, Pflug, Regala and Schoesler - 4

Excused: Senators Brown, McAuliffe and Tom - 3

ENGROSSED HOUSE BILL NO. 2388 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 5:26 p.m., on motion of Senator Eide, the Senate was recessed until 7:00 p.m.

EVENING SESSION

The Senate was called to order at 7:00 p.m. by President Owen.

MESSAGE FROM THE HOUSE

April 19, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5085, with the following amendment: 5085-S AMH APP H3573.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.84.092 and 2006 c 337 s 11, 2006 c 311 s 23, 2006 c 171 s 10, 2006 c 56 s 10, and 2006 c 6 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

((~~(a)~~)) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the emergency reserve fund, the energy freedom account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the health services account, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high-occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the safety and education account, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account the volunteer fire fighters' and reserve officers' relief and pension principal fund, the volunteer fire fighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan 1 retirement account, the Washington law enforcement officers' and fire fighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined

plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

((~~(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the county arterial preservation account, the department of licensing services account, the essential rail assistance account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the safety and education account, the special category C account, the state patrol highway account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, and the urban arterial trust account.~~))

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 2.** This act takes effect July 1, 2009."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Haugen moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5085.

Senator Haugen spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Haugen that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5085.

The motion by Senator Haugen carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5085 by voice vote.

MOTION

On motion of Senator Delvin, Senator Brandland was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5085, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5085, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 5; Excused, 2.

Voting yea: Senators Benton, Berkey, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Honeyford, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom and Weinstein - 42

Absent: Senators Hewitt, Jacobsen, Pflug, Poulsen and Zarelli - 5

Excused: Senators Brandland and McAuliffe - 2

SUBSTITUTE SENATE BILL NO. 5085, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 19, 2007

MR. PRESIDENT:

Under suspension of rules SUBSTITUTE SENATE BILL NO. 5830 was returned to second reading for purpose of an amendment: 5830-S AMH KAGI H3590.2, and passed the House as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 43.121 RCW to read as follows:

The legislature finds that:

(1) The years from birth to three are critical in building the social, emotional, and cognitive developmental foundations of a young child. Research into the brain development of young children reveals that children are born learning.

(2) The farther behind children are in their social, emotional, physical, and cognitive development, the more difficult it will be for them to catch up.

(3) A significant number of children age birth to five years are born with two or more of the following risk factors and have a greater chance of failure in school and beyond: Poverty; single or no parent; no parent employed full time or full year; all parents with disability; and mother without a high school degree.

(4) Parents and children involved in home visitation programs exhibit better birth outcomes, enhanced parent and child interactions, more efficient use of health care services, enhanced child development including improved school readiness, and early detection of developmental delays, as well as reduced welfare dependence, higher rates of school completion and job retention, reduction in frequency and severity of maltreatment, and higher rates of school graduation.

The legislature intends to promote the use of voluntary home visitation services to families as an early intervention strategy to alleviate the effect on child development of factors such as poverty, single parenthood, parental unemployment or underemployment, parental disability, or parental lack of a high school diploma, which research shows are risk factors for child abuse and neglect and poor educational outcomes.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.121 RCW to read as follows:

The definitions in this section apply throughout sections 1 through 4 of this act unless the context clearly requires otherwise.

(1) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population.

(2) "Home visitation" means providing services in the permanent or temporary residence, or in other familiar surroundings, of the family receiving such services.

(3) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

NEW SECTION. **Sec. 3.** A new section is added to chapter 43.121 RCW to read as follows:

(1) Within available funds, the children's trust of Washington shall fund evidence-based and research-based home visitation programs for improving parenting skills and outcomes for children. Home visitation programs must be voluntary and must address the needs of families to alleviate the effect on child development of factors such as poverty, single parenthood, parental unemployment or underemployment, parental disability, or parental lack of high school diploma, which research shows are risk factors for child abuse and neglect and poor educational outcomes.

(2) The children's trust of Washington shall develop a plan with the department of social and health services, the department of health, the department of early learning, and the family policy council to coordinate or consolidate home visitation services for children and families and report to the appropriate committees of the legislature by December 1, 2007, with their recommendations for implementation of the plan.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.121 RCW to read as follows:

To recognize the focus on home visitation services, the Washington council for the prevention of child abuse and neglect is hereby renamed the children's trust of Washington. All references to the Washington council for the prevention of child abuse and neglect in the Revised Code of Washington shall be construed to mean the children's trust of Washington.

NEW SECTION. **Sec. 5.** RCW 43.70.530 (Home visitor program) and 1998 c 245 s 75 & 1993 c 179 s 2 are each repealed."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5830.

Senator Hargrove spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators Jacobsen and Poulsen were excused.

MOTION

On motion of Senator Delvin, Senator Hewitt was excused.

MOTION

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5830.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5830 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5830, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5830, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Pflug - 1

Excused: Senators Hewitt, Jacobsen and Poulsen - 3

SUBSTITUTE SENATE BILL NO. 5830, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brandland, Senators Pflug and Zarelli were excused.

MESSAGE FROM THE HOUSE

April 18, 2007

MR. PRESIDENT:

The House has adopted the report of Conference Committee on ENGROSSED SUBSTITUTE SENATE BILL NO. 6032, and has passed the bill as recommended by the Conference Committee.

and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

REPORT OF THE CONFERENCE REPORT
Engrossed Substitute Senate Bill No. 6032
April 17, 2007

MR. PRESIDENT:
MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Substitute Senate Bill No. 6032, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature intends to clarify the law on medical marijuana so that the lawful use of this substance is not impaired and medical practitioners are able to exercise their best professional judgment in the delivery of medical treatment, qualifying patients may fully participate in the medical use of marijuana, and designated providers may assist patients in the manner provided by this act without fear of state criminal prosecution. This act is also intended to provide

clarification to law enforcement and to all participants in the judicial system.

Sec. 2. RCW 69.51A.005 and 1999 c 2 s 2 are each amended to read as follows:

The people of Washington state find that some patients with terminal or debilitating illnesses, under their physician's care, may benefit from the medical use of marijuana. Some of the illnesses for which marijuana appears to be beneficial include chemotherapy-related nausea and vomiting in cancer patients; AIDS wasting syndrome; severe muscle spasms associated with multiple sclerosis and other spasticity disorders; epilepsy; acute or chronic glaucoma; and some forms of intractable pain.

The people find that humanitarian compassion necessitates that the decision to authorize the medical use of marijuana by patients with terminal or debilitating illnesses is a personal, individual decision, based upon their physician's professional medical judgment and discretion.

Therefore, the people of the state of Washington intend that:

Qualifying patients with terminal or debilitating illnesses who, in the judgment of their physicians, ((~~would~~)) may benefit from the medical use of marijuana, shall not be found guilty of a crime under state law for their possession and limited use of marijuana;

Persons who act as ((~~primary caregivers~~)) designated providers to such patients shall also not be found guilty of a crime under state law for assisting with the medical use of marijuana; and

Physicians also be excepted from liability and prosecution for the authorization of marijuana use to qualifying patients for whom, in the physician's professional judgment, medical marijuana may prove beneficial.

Sec. 3. RCW 69.51A.010 and 1999 c 2 s 6 are each amended to read as follows:

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

(1) "Designated provider" means a person who:

(a) Is eighteen years of age or older;

(b) Has been designated in writing by a patient to serve as a designated provider under this chapter;

(c) Is prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; and

(d) Is the designated provider to only one patient at any one time.

(2) "Medical use of marijuana" means the production, possession, or administration of marijuana, as defined in RCW 69.50.101(q), for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating illness.

((~~(2) "Primary caregiver" means a person who:~~

~~(a) Is eighteen years of age or older;~~

~~(b) Is responsible for the housing, health, or care of the patient;~~

~~(c) Has been designated in writing by a patient to perform the duties of primary caregiver under this chapter.~~))

(3) "Qualifying patient" means a person who:

(a) Is a patient of a physician licensed under chapter 18.71 or 18.57 RCW;

(b) Has been diagnosed by that physician as having a terminal or debilitating medical condition;

(c) Is a resident of the state of Washington at the time of such diagnosis;

(d) Has been advised by that physician about the risks and benefits of the medical use of marijuana; and

(e) Has been advised by that physician that they may benefit from the medical use of marijuana.

(4) "Terminal or debilitating medical condition" means:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications; or

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

(g) Any other medical condition duly approved by the Washington state medical quality assurance ((~~board [commission]~~)) commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

(5) "Valid documentation" means:

(a) A statement signed by a qualifying patient's physician, or a copy of the qualifying patient's pertinent medical records, which states that, in the physician's professional opinion, the ((~~potential benefits of the medical use of marijuana would likely outweigh the health risks for a particular qualifying~~)) patient may benefit from the medical use of marijuana; ((~~and~~))

(b) Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035; and

(c) A copy of the physician statement described in (a) of this subsection shall have the same force and effect as the signed original.

Sec. 4. RCW 69.51A.030 and 1999 c 2 s 4 are each amended to read as follows:

A physician licensed under chapter 18.71 or 18.57 RCW shall be excepted from the state's criminal laws and shall not be penalized in any manner, or denied any right or privilege, for:

(1) Advising a qualifying patient about the risks and benefits of medical use of marijuana or that the qualifying patient may benefit from the medical use of marijuana where such use is within a professional standard of care or in the individual physician's medical judgment; or

(2) Providing a qualifying patient with valid documentation, based upon the physician's assessment of the qualifying patient's medical history and current medical condition, that the ((~~potential benefits of the~~)) medical use of marijuana ((~~would likely outweigh the health risks for the~~)) may benefit a particular qualifying patient.

Sec. 5. RCW 69.51A.040 and 1999 c 2 s 5 are each amended to read as follows:

(1) If a law enforcement officer determines that marijuana is being possessed lawfully under the medical marijuana law, the officer may document the amount of marijuana, take a representative sample that is large enough to test, but not seize the marijuana. A law enforcement officer or agency shall not be held civilly liable for failure to seize marijuana in this circumstance.

(2) If charged with a violation of state law relating to marijuana, any qualifying patient who is engaged in the medical use of marijuana, or any designated ((~~primary caregiver~~)) provider who assists a qualifying patient in the medical use of marijuana, will be deemed to have established an affirmative defense to such charges by proof of his or her compliance with

the requirements provided in this chapter. Any person meeting the requirements appropriate to his or her status under this chapter shall be considered to have engaged in activities permitted by this chapter and shall not be penalized in any manner, or denied any right or privilege, for such actions.

((~~(2) The~~)) (3) A qualifying patient, if eighteen years of age or older, or a designated provider shall:

(a) Meet all criteria for status as a qualifying patient or designated provider;

(b) Possess no more marijuana than is necessary for the patient's personal, medical use, not exceeding the amount necessary for a sixty-day supply; and

(c) Present his or her valid documentation to any law enforcement official who questions the patient or provider regarding his or her medical use of marijuana.

((~~(3) The~~)) (4) A qualifying patient, if under eighteen years of age at the time he or she is alleged to have committed the offense, shall ((~~comply~~)) demonstrate compliance with subsection ((~~(2)~~)) (3)(a) and (c) of this section. However, any possession under subsection ((~~(2)~~)) (3)(b) of this section, as well as any production, acquisition, and decision as to dosage and frequency of use, shall be the responsibility of the parent or legal guardian of the qualifying patient.

((~~(4) The designated primary caregiver shall:~~

~~(a) Meet all criteria for status as a primary caregiver to a qualifying patient;~~

~~(b) Possess, in combination with and as an agent for the qualifying patient, no more marijuana than is necessary for the patient's personal, medical use, not exceeding the amount necessary for a sixty-day supply;~~

~~(c) Present a copy of the qualifying patient's valid documentation required by this chapter, as well as evidence of designation to act as primary caregiver by the patient, to any law enforcement official requesting such information;~~

~~(d) Be prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as primary caregiver; and~~

~~(e) Be the primary caregiver to only one patient at any one time.~~))

Sec. 6. RCW 69.51A.060 and 1999 c 2 s 8 are each amended to read as follows:

(1) It shall be a misdemeanor to use or display medical marijuana in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter requires any health insurance provider to be liable for any claim for reimbursement for the medical use of marijuana.

(3) Nothing in this chapter requires any physician to authorize the use of medical marijuana for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of marijuana in any place of employment, in any school bus or on any school grounds, ((~~or~~)) in any youth center, in any correctional facility, or smoking medical marijuana in any public place as that term is defined in RCW 70.160.020.

(5) It is a class C felony to fraudulently produce any record purporting to be, or tamper with the content of any record for the purpose of having it accepted as, valid documentation under RCW 69.51A.010((~~(5)~~)) (6)(a).

(6) No person shall be entitled to claim the affirmative defense provided in RCW 69.51A.040 for engaging in the medical use of marijuana in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway.

Sec. 7. RCW 69.51A.070 and 1999 c 2 s 9 are each amended to read as follows:

The Washington state medical quality assurance ((~~board [commission]~~)) commission in consultation with the board of osteopathic medicine and surgery, or other appropriate agency as designated by the governor, shall accept for consideration petitions submitted ((~~by physicians or patients~~)) to add terminal or debilitating conditions to those included in this chapter. In considering such petitions, the Washington state medical quality assurance ((~~board [commission]~~)) commission in consultation with the board of osteopathic medicine and surgery shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions. The Washington state medical quality assurance ((~~board [commission]~~)) commission in consultation with the board of osteopathic medicine and surgery shall, after hearing, approve or deny such petitions within one hundred eighty days of submission. The approval or denial of such a petition shall be considered a final agency action, subject to judicial review.

NEW SECTION. **Sec. 8.** A new section is added to chapter 69.51A RCW to read as follows:

(1) By July 1, 2008, the department of health shall adopt rules defining the quantity of marijuana that could reasonably be presumed to be a sixty-day supply for qualifying patients; this presumption may be overcome with evidence of a qualifying patient's necessary medical use.

(2) As used in this chapter, "sixty-day supply" means that amount of marijuana that qualifying patients would reasonably be expected to need over a period of sixty days for their personal medical use. During the rule-making process, the department shall make a good faith effort to include all stakeholders identified in the rule-making analysis as being impacted by the rule.

(3) The department of health shall gather information from medical and scientific literature, consulting with experts and the public, and reviewing the best practices of other states regarding access to an adequate, safe, consistent, and secure source, including alternative distribution systems, of medical marijuana for qualifying patients. The department shall report its findings to the legislature by July 1, 2008."

Correct the title.

and the bill do pass as recommended by the conference committee.

Signed by Senators Carrell, Keiser and Kohl-Welles; Representatives Cody, Curtis and Hudgins.

MOTION

Senator Kohl-Welles moved that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6032 be adopted.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Report of the Conference Committee on Engrossed Substitute Senate Bill No. 6032 be adopted.

The motion by Senator Kohl-Welles carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6032, as recommended by the Conference Committee.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6032, as recommended by

the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 9; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Parlette, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Sheldon, Shin, Spanel, Tom and Weinstein - 37

Voting nay: Senators Clements, Hargrove, Holmquist, Honeyford, Morton, Schoesler, Stevens, Swecker and Zarelli - 9

Excused: Senators Hewitt, Pflug and Poulsen - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 6032, as recommended by the Conference Committee, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 20, 2007

MR. PRESIDENT:

The House refuses to grant Senate's request for a conference on ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1359, insists on its position and again asks Senate to recede thereon.

and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Fraser moved that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1359.

The President declared the question before the Senate to be motion by Senator Fraser that the Senate recede from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1359.

The motion by Senator Fraser carried and the Senate receded from its position in the Senate amendment(s) to Engrossed Second Substitute House Bill No. 1359.

MOTION

On motion of Senator Fraser, the rules were suspended and Engrossed Second Substitute House Bill No. 1359 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1359, by House Committee on Appropriations (originally sponsored by Representatives Miloscia, Chase, Hasegawa, Pettigrew, Springer, Ormsby, Roberts, Darneille, Goodman and Santos)

Creating an affordable housing for all program.

The measure was read the second time.

MOTION

Senator Fraser moved that the following striking amendment by Senators Fraser and Weinstein be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.22.178 and 2005 c 484 s 18 are each amended to read as follows:

The surcharge provided for in this section shall be named the affordable housing for all surcharge.

(1) Except as provided in subsection ((~~(2)~~)) (3) of this section, a surcharge of ten dollars per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law. The county may retain up to five percent of these funds collected solely for the collection, administration, and local distribution of these funds. Of the remaining funds, forty percent of the revenue generated through this surcharge will be transmitted monthly to the state treasurer who will deposit the funds into the ((~~Washington housing trust account~~)) affordable housing for all account created in section 2 of this act. ((~~The office of community development of the department of community, trade, and economic development will develop guidelines for the use of these funds to support~~)) The department of community, trade, and economic development must use these funds to provide housing and shelter for extremely low-income households, including but not limited to grants for building operation and maintenance costs of housing projects or units within housing projects that are affordable to extremely low-income ((~~persons~~)) households with incomes at or below thirty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses.

(2) All of the remaining funds generated by this surcharge will be retained by the county and be deposited into a fund that must be used by the county and its cities and towns for eligible housing ((~~projects or units within housing projects that are affordable to~~)) activities as described in this subsection that serve very low-income ((~~persons~~)) households with incomes at or below fifty percent of the area median income. The portion of the surcharge retained by a county shall be allocated to eligible housing activities that serve extremely low and very low-income ((~~housing projects or units within such housing projects~~)) households in the county and the cities within a county according to an interlocal agreement between the county and the cities within the county consistent with countywide and local housing needs and policies. ((~~The funds generated with this surcharge shall not be used for construction of new housing if at any time the vacancy rate for available low-income housing within the county rises above ten percent. The vacancy rate for each county shall be developed using the state low-income vacancy rate standard developed under subsection (3) of this section. Uses of~~)) A priority must be given to eligible housing activities that serve extremely low-income households with incomes at or below thirty percent of the area median income. Eligible housing activities to be funded by these ((~~local~~)) county funds are limited to:

(a) Acquisition, construction, or rehabilitation of housing projects or units within housing projects that are affordable to very low-income ((~~persons~~)) households with incomes at or below fifty percent of the area median income, including units for homeownership, rental units, seasonal and permanent farm worker housing units, and single room occupancy units;

(b) Supporting building operation and maintenance costs of housing projects or units within housing projects eligible to receive housing trust funds, that are affordable to very low-income ((~~persons~~)) households with incomes at or below fifty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses;

(c) Rental assistance vouchers for housing ((~~projects or~~)) units ((~~within housing projects~~)) that are affordable to very low-income ((~~persons~~)) households with incomes at or below fifty percent of the area median income, to be administered by a local public housing authority or other local organization that has an existing rental assistance voucher program, consistent with or similar to the United States department of housing and urban

development's section 8 rental assistance voucher program standards; and

(d) Operating costs for emergency shelters and licensed overnight youth shelters.

((~~(2)~~)) (3) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

((~~(3) The real estate research center at Washington State University shall develop a vacancy rate standard for low-income housing in the state as described in RCW 18.85.540(1)(i)~~)).

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.185C RCW to read as follows:

The affordable housing for all account is created in the state treasury, subject to appropriation. The state's portion of the surcharges established in RCW 36.22.178 shall be deposited in the account. Expenditures from the account may only be used for affordable housing programs.

Sec. 3. RCW 43.185C.010 and 2006 c 349 s 6 are each amended to read as follows:

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

(1) "Department" means the department of community, trade, and economic development.

(2) "Director" means the director of the department of community, trade, and economic development.

(3) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, ((~~mentally ill~~)) people with mental illness, and sex offenders who are homeless.

(4) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

(5) "((~~Homeless housing~~)) Home security fund account" means the state treasury account receiving the state's portion of income from revenue from the sources established by RCW 36.22.179, section 5 of this act, and all other sources directed to the homeless housing and assistance program.

(6) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the homeless housing account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

(7) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

(8) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

(9) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

(10) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

(11) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, policy level representatives of the following entities: (a) The department of community, trade, and economic development; (b) the department of corrections; (c) the department of social and health services; (d) the department of veterans affairs; and (e) the department of health.

(12) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

(13) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

(15) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

(16) "Homeless housing plan" means the ten-year plan developed by the county or other local government to address housing for homeless persons.

(17) "Homeless housing strategic plan" means the ten-year plan developed by the department, in consultation with the interagency council on homelessness and the affordable housing advisory board.

(18) "Washington homeless client management information system" means a data base of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations.

Sec. 4. RCW 36.22.179 and 2005 c 484 s 9 are each amended to read as follows:

(1) In addition to the surcharge authorized in RCW 36.22.178, and except as provided in subsection (2) of this section, an additional surcharge of ten dollars shall be charged by the county auditor for each document recorded, which will be in addition to any other charge allowed by law. The funds collected pursuant to this section are to be distributed and used as follows:

(a) The auditor shall retain two percent for collection of the fee, and of the remainder shall remit sixty percent to the county to be deposited into a fund that must be used by the county and its cities and towns to accomplish the purposes of this chapter ((~~484, Laws of 2005~~)), six percent of which may be used by the county for administrative costs related to its homeless housing plan, and the remainder for programs which directly accomplish the goals of the county's local homeless housing plan, except that for each city in the county which elects as authorized in RCW 43.185C.080 to operate its ownlocal homeless housing program, a percentage of the surcharge assessed under this section equal to the percentage of the city's local portion of the real estate excise tax collected by the county shall be transmitted at least quarterly to the city treasurer, without any deduction for county administrative costs, for use by the city for program costs which directly contribute to the goals of the city's local homeless housing plan; of the funds received by the city, it may use six percent for administrative costs for its homeless housing program.

(b) The auditor shall remit the remaining funds to the state treasurer for deposit in the ((~~homeless housing~~)) home security fund account. The department may use twelve and one-half percent of this amount for administration of the program established in RCW 43.185C.020, including the costs of creating the statewide homeless housing strategic plan, measuring performance, providing technical assistance to local governments, and managing the homeless housing grant program. The remaining eighty-seven and one-half percent is to

be ((~~distributed by the department to local governments through the homeless housing grant program~~)) used by the department to:

(i) Provide housing and shelter for homeless people including, but not limited to: Grants to operate, repair, and staff shelters; grants to operate transitional housing; partial payments for rental assistance; consolidated emergency assistance; overnight youth shelters; and emergency shelter assistance; and

(ii) Fund the homeless housing grant program.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.185C RCW to read as follows:

(1) In addition to the surcharges authorized in RCW 36.22.178 and 36.22.179, and except as provided in subsection (2) of this section, the county auditor shall charge an additional surcharge of eight dollars for each document recorded, which is in addition to any other charge allowed by law. The funds collected under this section are to be distributed and used as follows:

(a) The auditor shall remit ninety percent to the county to be deposited into a fund six percent of which may be used by the county for administrative costs related to its homeless housing plan, and the remainder for programs that directly accomplish the goals of the county's local homeless housing plan, except that for each city in the county that elects, as authorized in RCW 43.185C.080, to operate its own homeless housing program, a percentage of the surcharge assessed under this section equal to the percentage of the city's local portion of the real estate excise tax collected by the county must be transmitted at least quarterly to the city treasurer for use by the city for program costs that directly contribute to the goals of the city's homeless housing plan.

(b) The auditor shall remit the remaining funds to the state treasurer for deposit in the home security fund account. The department may use the funds for administering the program established in RCW 43.185C.020, including the costs of creating and updating the statewide homeless housing strategic plan, measuring performance, providing technical assistance to local governments, and managing the homeless housing grant program. Remaining funds may also be used to:

(i) Provide housing and shelter for homeless people including, but not limited to: Grants to operate, repair, and staff shelters; grants to operate transitional housing; partial payments for rental assistance; consolidated emergency assistance; overnight youth shelters; and emergency shelter assistance; and

(ii) Fund the homeless housing grant program.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

Sec. 6. RCW 43.185C.060 and 2005 c 484 s 10 are each amended to read as follows:

The ((~~homeless housing~~)) home security fund account is created in the ((~~custody of the~~)) state ((~~treasurer~~)) treasury, subject to appropriation. The state's portion of the surcharge established in RCW 36.22.179 and section 5 of this act must be deposited in the account. Expenditures from the account may be used only for ((~~the~~)) homeless housing programs as described in this chapter. ((~~Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.~~))"

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Fraser and Weinstein to Engrossed Second Substitute House Bill No. 1359.

The motion by Senator Fraser 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 "all;" strike the remainder of the title and insert "amending RCW 36.22.178, 43.185C.010, 36.22.179, and 43.185C.060; and adding new sections to chapter 43.185C RCW."

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Second Substitute House Bill No. 1359 as amended by the Senate was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Fraser spoke in favor of passage of the bill.

Senator Honeyford spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1359 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1359 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kline, Kohl-Welles, McAuliffe, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel and Weinstein - 28

Voting nay: Senators Benton, Brandland, Carrell, Clements, Delvin, Hatfield, Hewitt, Holmquist, Honeyford, Kilmer, Marr, McCaslin, Morton, Parlette, Roach, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli - 21

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1359 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

SECOND READING

SENATE BILL NO. 6156, by Senator Prentice

Relating to State Government.

MOTION

On motion of Senator Kastama, Substitute Senate Bill No. 6156 was substituted for Senate Bill No. 6156 and the substitute bill was placed on the second reading calendar and read the second time.

PARLIAMENTARY INQUIRY

Senator Schoesler: “Thank you Mr. President. I believe that the committee amendment offered is beyond the scope and object of the underlying bill.”

REPLY BY THE PRESIDENT

President Owen: "Senator the only thing that we're working on is the substitute to the senate bill. Are you raising the point on the substitute. There are no amendments."

REMARKS BY SENATOR SCHOESLER

Senator Schoesler: "I will delay my inquiry."

PARLIAMENTARY INQUIRY

Senator Eide: "Part of it that I'm questioning this because this is a title only. How does that work when there hasn't been….?"

REPLY BY THE PRESIDENT

President Owen: "The President really can't rule until he has an opportunity to look at both, at what we're talking about. I'm sorry."

PARLIAMENTARY INQUIRY

Senator Schoesler: "Is the amendment on the bar?"

REPLY BY THE PRESIDENT

President Owen: "There is no amendment."

PARLIAMENTARY INQUIRY

Senator Schoesler: "There were committee amendments, am I correct?"

REPLY BY THE PRESIDENT

President Owen: "There are no committee amendments. The only amendment is the substitute."

POINT OF ORDER

Senator Schoesler: "Ok Mr. President. I would offer it to the substitute then. Thank you Mr. President. The substance of the bill consists of the following single sentence. 'This act shall be known as the state government act of 2007.' This is sum the total of the bill. There's absolutely no policy change or expressed in the bill and no substantive law is modified. By contrast, the committee amendment creates community preservation and development authorities. It directs that the authorities be governed by a board of directors, details the duties of the authority it creates a new account in the state treasury. The one sentence in the underlying bill makes no mention of community preservation and development authorities nor any other policy or program. Mr. President, Rule 66 provides that no amendment to any bill shall be allowed which shall change the scope and object of the bill. I find no exemptions for title only bills. For these reasons, I believe the amendment offered is outside the scope and object of the underlying bill and I respectfully request a ruling on this matter."

Senator Brown spoke against the point of order.

MOTION

On motion of Senator Eide, further consideration of Substitute Senate Bill No. 6156 was deferred and the bill held its place on the second reading calendar.

SECOND READING

SENATE BILL NO. 6158, by Senator Prentice

Relating to human services. Revised for 1st Substitute: Concerning the biennial rebasing of nursing facility medicaid payment rates.

MOTION

On motion of Senator Keiser, Substitute Senate Bill No. 6158 was substituted for Senate Bill No. 6158 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Keiser moved that the following striking amendment by Senators Keiser and Parlette be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.46.410 and 2001 1st sp.s. c 8 s 3 are each amended to read as follows:

(1) Costs will be unallowable if they are not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) Unallowable costs include, but are not limited to, the following:

(a) Costs of items or services not covered by the medical care program. Costs of such items or services will be unallowable even if they are indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items provided to recipients which are covered by the department's medical care program but not included in the medicaid per-resident day payment rate established by the department under this chapter;

(c) Costs associated with a capital expenditure subject to section 1122 approval (part 100, Title 42 C.F.R.) if the department found it was not consistent with applicable standards, criteria, or plans. If the department was not given timely notice of a proposed capital expenditure, all associated costs will be unallowable up to the date they are determined to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval, or exemption from the requirements for certificate of need for the replacement of existing nursing home beds, pursuant to chapter 70.38 RCW if such approval or exemption was not obtained;

(e) Interest costs other than those provided by RCW 74.46.290 on and after January 1, 1985;

(f) Salaries or other compensation of owners, officers, directors, stockholders, partners, principals, participants, and others associated with the contractor or its home office, including all board of directors' fees for any purpose, except reasonable compensation paid for service related to patient care;

(g) Costs in excess of limits or in violation of principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods which circumvent the principles of the payment system set forth in this chapter;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX recipients are allowable if the debt is related to

covered services, it arises from the recipient's required contribution toward the cost of care, the provider can establish that reasonable collection efforts were made, the debt was actually uncollectible when claimed as worthless, and sound business judgment established that there was no likelihood of recovery at any time in the future;

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except those used in patient activity programs;

(r) Fund-raising expenses, except those directly related to the patient activity program;

(s) Penalties and fines;

(t) Expenses related to telephones, radios, and similar appliances in patients' private accommodations;

(u) Televisions acquired prior to July 1, 2001;

(v) Federal, state, and other income taxes;

(w) Costs of special care services except where authorized by the department;

(x) Expenses of an employee benefit not in fact made available to all employees on an equal or fair basis, for example, key-man insurance and other insurance or retirement plans;

(y) Expenses of profit-sharing plans;

(z) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;

(aa) Personal expenses and allowances of owners or relatives;

(bb) All expenses of maintaining professional licenses or membership in professional organizations;

(cc) Costs related to agreements not to compete;

(dd) Amortization of goodwill, lease acquisition, or any other intangible asset, whether related to resident care or not, and whether recognized under generally accepted accounting principles or not;

(ee) Expenses related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;

(ff) Legal and consultant fees in connection with a fair hearing against the department where a decision is rendered in favor of the department or where otherwise the determination of the department stands;

(gg) Legal and consultant fees of a contractor or contractors in connection with a lawsuit against the department;

(hh) Lease acquisition costs, goodwill, the cost of bed rights, or any other intangible assets;

(ii) All rental or lease costs other than those provided in RCW 74.46.300 on and after January 1, 1985;

(jj) Postsurvey charges incurred by the facility as a result of subsequent inspections under RCW 18.51.050 which occur beyond the first postsurvey visit during the certification survey calendar year;

(kk) Compensation paid for any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensation paid for such hours of nursing care service had they been paid at the average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification at the same nursing facility, as reported in the most recent cost report period;

(ll) For all partial or whole rate periods after July 17, 1984, costs of land and depreciable assets that cannot be reimbursed under the Deficit Reduction Act of 1984 and implementing state statutory and regulatory provisions;

(mm) Costs reported by the contractor for a prior period to the extent such costs, due to statutory exemption, will not be incurred by the contractor in the period to be covered by the rate;

(nn) Costs of outside activities, for example, costs allocated to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space;

(oo) Travel expenses outside the states of Idaho, Oregon, and Washington and the province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing facility is allowed whether inside or outside these areas if the travel is necessary, ordinary, and related to resident care;

(pp) Moving expenses of employees in the absence of demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the province of British Columbia;

(qq) Depreciation in excess of four thousand dollars per year for each passenger car or other vehicle primarily used by the administrator, facility staff, or central office staff;

(rr) Costs for temporary health care personnel from a nursing pool not registered with the secretary of the department of health;

(ss) Payroll taxes associated with compensation in excess of allowable compensation of owners, relatives, and administrative personnel;

(tt) Costs and fees associated with filing a petition for bankruptcy;

(uu) All advertising or promotional costs, except reasonable costs of help wanted advertising;

(vv) Outside consultation expenses required to meet department-required minimum data set completion proficiency;

(ww) Interest charges assessed by any department or agency of this state for failure to make a timely refund of overpayments and interest expenses incurred for loans obtained to make the refunds;

(xx) All home office or central office costs, whether on or off the nursing facility premises, and whether allocated or not to specific services, in excess of the median of those adjusted costs for all facilities reporting such costs for the most recent report period; ((~~and~~))

(yy) Tax expenses that a nursing facility has never incurred; and

(zz) Effective July 1, 2007, and for all future rate settings, any costs associated with the quality maintenance fee repealed by chapter 241, Laws of 2006.

Sec. 2. RCW 74.46.431 and 2006 c 258 s 2 are each amended to read as follows:

(1) Effective July 1, 1999, nursing facility medicaid payment rate allocations shall be facility-specific and shall have seven components: Direct care, therapy care, support services, operations, property, financing allowance, and variable return. The department shall establish and adjust each of these components, as provided in this section and elsewhere in this chapter, for each medicaid nursing facility in this state.

(2) Component rate allocations in therapy care, support services, variable return, operations, property, and financing allowance for essential community providers as defined in this chapter shall be based upon a minimum facility occupancy of eighty-five percent of licensed beds, regardless of how many beds are set up or in use. For all facilities other than essential community providers, effective July 1, 2001, component rate allocations in direct care, therapy care, support services, variable return, operations, property, and financing allowance shall continue to be based upon a minimum facility occupancy of

eighty-five percent of licensed beds. For all facilities other than essential community providers, effective July 1, 2002, the component rate allocations in operations, property, and financing allowance shall be based upon a minimum facility occupancy of ninety percent of licensed beds, regardless of how many beds are set up or in use. For all facilities, effective July 1, 2006, the component rate allocation in direct care shall be based upon actual facility occupancy.

(3) Information and data sources used in determining medicaid payment rate allocations, including formulas, procedures, cost report periods, resident assessment instrument formats, resident assessment methodologies, and resident classification and case mix weighting methodologies, may be substituted or altered from time to time as determined by the department.

(4)(a) Direct care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, direct care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2006, direct care component rate allocations. Adjusted cost report data from 2003 will be used for July 1, 2006, ((~~and later~~)) through June 30, 2007, direct care component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, direct care component rate allocations. Effective July 1, 2009, the direct care component rate allocation shall be rebased biennially, and thereafter for each odd-numbered year beginning July 1st, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, 2011, and so forth.

(b) Direct care component rate allocations based on 1996 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in RCW 74.46.506(5)(i).

(c) Direct care component rate allocations based on 1999 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 1998, rate, as provided in RCW 74.46.506(5)(i).

(d) Direct care component rate allocations based on 2003 cost report data shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose direct care component rate is set equal to their adjusted June 30, 2006, rate, as provided in RCW 74.46.506(5)(i).

(e) Direct care component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(5)(a) Therapy care component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 will be used for October 1, 1998, through June 30, 2001, therapy care component rate allocations; adjusted cost report data from 1999 will be used for July 1, 2001, through June 30, 2005, therapy care component rate allocations. Adjusted cost report data from 1999 will continue to be used for July 1, 2005, ((~~and later~~)) through June 30, 2007, therapy care component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, therapy care component rate allocations. Effective July 1, 2009, and thereafter for each odd-numbered year beginning July 1st, the therapy care component rate allocation shall be cost rebased biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, 2011, and so forth.

(b) Therapy care component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(6)(a) Support services component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, support services component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2005, support services component rate allocations. Adjusted cost report data from 1999 will continue to be used for July 1, 2005, ((~~and later~~)) through June 30, 2007, support services component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, support services component rate allocations. Effective July 1, 2009, and thereafter for each odd-numbered year beginning July 1st, the support services component rate allocation shall be cost rebased biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, 2011, and so forth.

(b) Support services component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act.

(7)(a) Operations component rate allocations shall be established using adjusted cost report data covering at least six months. Adjusted cost report data from 1996 shall be used for October 1, 1998, through June 30, 2001, operations component rate allocations; adjusted cost report data from 1999 shall be used for July 1, 2001, through June 30, 2006, operations component rate allocations. Adjusted cost report data from 2003 will be used for July 1, 2006, ((~~and later~~)) through June 30, 2007, operations component rate allocations. Adjusted cost report data from 2005 will be used for July 1, 2007, through June 30, 2009, operations component rate allocations. Effective July 1, 2009, and thereafter for each odd-numbered year beginning July 1st, the operations component rate allocation shall be cost rebased biennially, using the adjusted cost report data for the calendar year two years immediately preceding the rate rebase period, so that adjusted cost report data for calendar year 2007 is used for July 1, 2009, through June 30, 2011, and so forth.

(b) Operations component rate allocations shall be adjusted annually for economic trends and conditions by a factor or factors defined in the biennial appropriations act. A different economic trends and conditions adjustment factor or factors may be defined in the biennial appropriations act for facilities whose operations component rate is set equal to their adjusted June 30, 2006, rate, as provided in RCW 74.46.521(4).

(8) For July 1, 1998, through September 30, 1998, a facility's property and return on investment component rates shall be the facility's June 30, 1998, property and return on investment component rates, without increase. For October 1, 1998, through June 30, 1999, a facility's property and return on investment component rates shall be rebased utilizing 1997 adjusted cost report data covering at least six months of data.

(9) Total payment rates under the nursing facility medicaid payment system shall not exceed facility rates charged to the general public for comparable services.

(10) Medicaid contractors shall pay to all facility staff a minimum wage of the greater of the state minimum wage or the federal minimum wage.

(11) The department shall establish in rule procedures, principles, and conditions for determining component rate allocations for facilities in circumstances not directly addressed

by this chapter, including but not limited to: The need to prorate inflation for partial-period cost report data, newly constructed facilities, existing facilities entering the medicaid program for the first time or after a period of absence from the program, existing facilities with expanded new bed capacity, existing medicaid facilities following a change of ownership of the nursing facility business, facilities banking beds or converting beds back into service, facilities temporarily reducing the number of set-up beds during a remodel, facilities having less than six months of either resident assessment, cost report data, or both, under the current contractor prior to rate setting, and other circumstances.

(12) The department shall establish in rule procedures, principles, and conditions, including necessary threshold costs, for adjusting rates to reflect capital improvements or new requirements imposed by the department or the federal government. Any such rate adjustments are subject to the provisions of RCW 74.46.421.

(13) Effective July 1, 2001, medicaid rates shall continue to be revised downward in all components, in accordance with department rules, for facilities converting banked beds to active service under chapter 70.38 RCW, by using the facility's increased licensed bed capacity to recalculate minimum occupancy for rate setting. However, for facilities other than essential community providers which bank beds under chapter 70.38 RCW, after May 25, 2001, medicaid rates shall be revised upward, in accordance with department rules, in direct care, therapy care, support services, and variable return components only, by using the facility's decreased licensed bed capacity to recalculate minimum occupancy for rate setting, but no upward revision shall be made to operations, property, or financing allowance component rates. The direct care component rate allocation shall be adjusted, without using the minimum occupancy assumption, for facilities that convert banked beds to active service, under chapter 70.38 RCW, beginning on July 1, 2006.

(14) Facilities obtaining a certificate of need or a certificate of need exemption under chapter 70.38 RCW after June 30, 2001, must have a certificate of capital authorization in order for (a) the depreciation resulting from the capitalized addition to be included in calculation of the facility's property component rate allocation; and (b) the net invested funds associated with the capitalized addition to be included in calculation of the facility's financing allowance rate allocation.

Sec. 3. RCW 74.46.506 and 2006 c 258 s 6 are each amended to read as follows:

(1) The direct care component rate allocation corresponds to the provision of nursing care for one resident of a nursing facility for one day, including direct care supplies. Therapy services and supplies, which correspond to the therapy care component rate, shall be excluded. The direct care component rate includes elements of case mix determined consistent with the principles of this section and other applicable provisions of this chapter.

(2) Beginning October 1, 1998, the department shall determine and update quarterly for each nursing facility serving medicaid residents a facility-specific per-resident day direct care component rate allocation, to be effective on the first day of each calendar quarter. In determining direct care component rates the department shall utilize, as specified in this section, minimum data set resident assessment data for each resident of the facility, as transmitted to, and if necessary corrected by, the department in the resident assessment instrument format approved by federal authorities for use in this state.

(3) The department may question the accuracy of assessment data for any resident and utilize corrected or substitute information, however derived, in determining direct care component rates. The department is authorized to impose civil fines and to take adverse rate actions against a contractor, as specified by the department in rule, in order to obtain compliance with resident assessment and data transmission requirements and to ensure accuracy.

(4) Cost report data used in setting direct care component rate allocations shall be ((~~1996, 1999, and 2003~~)) for rate periods as specified in RCW 74.46.431(4)(a).

(5) Beginning October 1, 1998, the department shall rebase each nursing facility's direct care component rate allocation as described in RCW 74.46.431, adjust its direct care component rate allocation for economic trends and conditions as described in RCW 74.46.431, and update its medicaid average case mix index, consistent with the following:

(a) Reduce total direct care costs reported by each nursing facility for the applicable cost report period specified in RCW 74.46.431(4)(a) to reflect any department adjustments, and to eliminate reported resident therapy costs and adjustments, in order to derive the facility's total allowable direct care cost;

(b) Divide each facility's total allowable direct care cost by its adjusted resident days for the same report period, increased if necessary to a minimum occupancy of eighty-five percent; that is, the greater of actual or imputed occupancy at eighty-five percent of licensed beds, to derive the facility's allowable direct care cost per resident day. However, effective July 1, 2006, each facility's allowable direct care costs shall be divided by its adjusted resident days without application of a minimum occupancy assumption;

(c) Adjust the facility's per resident day direct care cost by the applicable factor specified in RCW 74.46.431(4) ((~~(b), (c), and (d)~~)) to derive its adjusted allowable direct care cost per resident day;

(d) Divide each facility's adjusted allowable direct care cost per resident day by the facility average case mix index for the applicable quarters specified by RCW 74.46.501(7)(b) to derive the facility's allowable direct care cost per case mix unit;

(e) Effective for July 1, 2001, rate setting, divide nursing facilities into at least two and, if applicable, three peer groups: Those located in nonurban counties; those located in high labor-cost counties, if any; and those located in other urban counties;

(f) Array separately the allowable direct care cost per case mix unit for all facilities in nonurban counties; for all facilities in high labor-cost counties, if applicable; and for all facilities in other urban counties, and determine the median allowable direct care cost per case mix unit for each peer group;

(g) Except as provided in (i) of this subsection, from October 1, 1998, through June 30, 2000, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is less than eighty-five percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to eighty-five percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

(ii) Any facility whose allowable cost per case mix unit is greater than one hundred fifteen percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred fifteen percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

(iii) Any facility whose allowable cost per case mix unit is between eighty-five and one hundred fifteen percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

(h) Except as provided in (i) of this subsection, from July 1, 2000, through June 30, 2006, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is less than ninety percent of the facility's peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to ninety percent of the facility's peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

(ii) Any facility whose allowable cost per case mix unit is greater than one hundred ten percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred ten percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

(iii) Any facility whose allowable cost per case mix unit is between ninety and one hundred ten percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

(i)(i) Between October 1, 1998, and June 30, 2000, the department shall compare each facility's direct care component rate allocation calculated under (g) of this subsection with the facility's nursing services component rate in effect on September 30, 1998, less therapy costs, plus any exceptional care offsets as reported on the cost report, adjusted for economic trends and conditions as provided in RCW 74.46.431. A facility shall receive the higher of the two rates.

(ii) Between July 1, 2000, and June 30, 2002, the department shall compare each facility's direct care component rate allocation calculated under (h) of this subsection with the facility's direct care component rate in effect on June 30, 2000. A facility shall receive the higher of the two rates. Between July 1, 2001, and June 30, 2002, if during any quarter a facility whose rate paid under (h) of this subsection is greater than either the direct care rate in effect on June 30, 2000, or than that facility's allowable direct care cost per case mix unit calculated in (d) of this subsection multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c), the facility shall be paid in that and each subsequent quarter pursuant to (h) of this subsection and shall not be entitled to the greater of the two rates.

(iii) Between July 1, 2002, and June 30, 2006, all direct care component rate allocations shall be as determined under (h) of this subsection.

(iv) Effective July 1, 2006, for all providers, except vital local providers as defined in this chapter, all direct care component rate allocations shall be as determined under (j) of this subsection.

(v) Effective July 1, 2006, through June 30, 2007, for vital local providers, as defined in this chapter, direct care component rate allocations shall be determined as follows:

(A) The department shall calculate:

(I) The sum of each facility's July 1, 2006, direct care component rate allocation calculated under (j) of this subsection and July 1, 2006, operations component rate calculated under RCW 74.46.521; and

(II) The sum of each facility's June 30, 2006, direct care and operations component rates.

(B) If the sum calculated under (i)(v)(A)(I) of this subsection is less than the sum calculated under (i)(v)(A)(II) of this subsection, the facility shall have a direct care component rate allocation equal to the facility's June 30, 2006, direct care component rate allocation.

(C) If the sum calculated under (i)(v)(A)(I) of this subsection is greater than or equal to the sum calculated under (i)(v)(A)(II) of this subsection, the facility's direct care component rate shall be calculated under (j) of this subsection;

(j) Except as provided in (i) of this subsection, from July 1, 2006, forward, and for all future rate setting, determine each facility's quarterly direct care component rate as follows:

(i) Any facility whose allowable cost per case mix unit is greater than one hundred twelve percent of the peer group median established under (f) of this subsection shall be assigned a cost per case mix unit equal to one hundred twelve percent of the peer group median, and shall have a direct care component rate allocation equal to the facility's assigned cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c);

(ii) Any facility whose allowable cost per case mix unit is less than or equal to one hundred twelve percent of the peer group median established under (f) of this subsection shall have a direct care component rate allocation equal to the facility's allowable cost per case mix unit multiplied by that facility's medicaid average case mix index from the applicable quarter specified in RCW 74.46.501(7)(c).

(6) The direct care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

(7) Costs related to payments resulting from increases in direct care component rates, granted under authority of RCW 74.46.508(1) for a facility's exceptional care residents, shall be offset against the facility's examined, allowable direct care costs, for each report year or partial period such increases are paid. Such reductions in allowable direct care costs shall be for rate setting, settlement, and other purposes deemed appropriate by the department.

Sec. 4. RCW 74.46.511 and 2001 1st sp.s. c 8 s 11 are each amended to read as follows:

(1) The therapy care component rate allocation corresponds to the provision of medicaid one-on-one therapy provided by a qualified therapist as defined in this chapter, including therapy supplies and therapy consultation, for one day for one medicaid resident of a nursing facility. The therapy care component rate allocation for October 1, 1998, through June 30, 2001, shall be based on adjusted therapy costs and days from calendar year 1996. The therapy component rate allocation for July 1, 2001, through June 30, ((~~2004~~)) 2007, shall be based on adjusted therapy costs and days from calendar year 1999. Effective July 1, 2007, the therapy care component rate allocation shall be based on adjusted therapy costs and days as described in RCW 74.46.431(5). The therapy care component rate shall be adjusted for economic trends and conditions as specified in RCW 74.46.431(5)((~~(b)~~)), and shall be determined in accordance with this section.

(2) In rebasing, as provided in RCW 74.46.431(5)(a), the department shall take from the cost reports of facilities the following reported information:

(a) Direct one-on-one therapy charges for all residents by payer including charges for supplies;

(b) The total units or modules of therapy care for all residents by type of therapy provided, for example, speech or physical. A unit or module of therapy care is considered to be fifteen minutes of one-on-one therapy provided by a qualified therapist or support personnel; and

(c) Therapy consulting expenses for all residents.

(3) The department shall determine for all residents the total cost per unit of therapy for each type of therapy by dividing the total adjusted one-on-one therapy expense for each type by the total units provided for that therapy type.

(4) The department shall divide medicaid nursing facilities in this state into two peer groups:

(a) Those facilities located within urban counties; and

(b) Those located within nonurban counties.

The department shall array the facilities in each peer group from highest to lowest based on their total cost per unit of therapy for each therapy type. The department shall determine the median total cost per unit of therapy for each therapy type and add ten percent of median total cost per unit of therapy. The cost per unit of therapy for each therapy type at a nursing facility shall be the lesser of its cost per unit of therapy for each therapy type or the median total cost per unit plus ten percent for each therapy type for its peer group.

(5) The department shall calculate each nursing facility's therapy care component rate allocation as follows:

(a) To determine the allowable total therapy cost for each therapy type, the allowable cost per unit of therapy for each type of therapy shall be multiplied by the total therapy units for each type of therapy;

(b) The medicaid allowable one-on-one therapy expense shall be calculated taking the allowable total therapy cost for each therapy type times the medicaid percent of total therapy charges for each therapy type;

(c) The medicaid allowable one-on-one therapy expense for each therapy type shall be divided by total adjusted medicaid days to arrive at the medicaid one-on-one therapy cost per patient day for each therapy type;

(d) The medicaid one-on-one therapy cost per patient day for each therapy type shall be multiplied by total adjusted patient days for all residents to calculate the total allowable one-on-one therapy expense. The lesser of the total allowable therapy consultant expense for the therapy type or a reasonable percentage of allowable therapy consultant expense for each therapy type, as established in rule by the department, shall be added to the total allowable one-on-one therapy expense to determine the allowable therapy cost for each therapy type;

(e) The allowable therapy cost for each therapy type shall be added together, the sum of which shall be the total allowable therapy expense for the nursing facility;

(f) The total allowable therapy expense will be divided by the greater of adjusted total patient days from the cost report on which the therapy expenses were reported, or patient days at eighty-five percent occupancy of licensed beds. The outcome shall be the nursing facility's therapy care component rate allocation.

(6) The therapy care component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

(7) The therapy care component rate shall be suspended for medicaid residents in qualified nursing facilities designated by the department who are receiving therapy paid by the department outside the facility daily rate under RCW 74.46.508(2).

Sec. 5. RCW 74.46.521 and 2006 c 258 s 7 are each amended to read as follows:

(1) The operations component rate allocation corresponds to the general operation of a nursing facility for one resident for one day, including but not limited to management, administration, utilities, office supplies, accounting and bookkeeping, minor building maintenance, minor equipment repairs and replacements, and other supplies and services, exclusive of direct care, therapy care, support services, property, financing allowance, and variable return.

(2) Except as provided in subsection (4) of this section, beginning October 1, 1998, the department shall determine each medicaid nursing facility's operations component rate allocation using cost report data specified by RCW 74.46.431(7)(a). Effective July 1, 2002, operations component rates for all facilities except essential community providers shall be based upon a minimum occupancy of ninety percent of licensed beds, and no operations component rate shall be revised in response to beds banked on or after May 25, 2001, under chapter 70.38 RCW.

(3) Except as provided in subsection (4) of this section, to determine each facility's operations component rate the department shall:

(a) Array facilities' adjusted general operations costs per adjusted resident day, as determined by dividing each facility's total allowable operations cost by its adjusted resident days for the same report period, increased if necessary to a minimum occupancy of ninety percent; that is, the greater of actual or imputed occupancy at ninety percent of licensed beds, for each facility from facilities' cost reports from the applicable report year, for facilities located within urban counties and for those located within nonurban counties and determine the median adjusted cost for each peer group;

(b) Set each facility's operations component rate at the lower of:

(i) The facility's per resident day adjusted operations costs from the applicable cost report period adjusted if necessary to a minimum occupancy of eighty-five percent of licensed beds before July 1, 2002, and ninety percent effective July 1, 2002; or

(ii) The adjusted median per resident day general operations cost for that facility's peer group, urban counties or nonurban counties; and

(c) Adjust each facility's operations component rate for economic trends and conditions as provided in RCW 74.46.431(7)(b).

(4)(a) Effective July 1, 2006, through June 30, 2007, for any facility whose direct care component rate allocation is set equal to its June 30, 2006, direct care component rate allocation, as provided in RCW 74.46.506(5)((~~(i)~~)), the facility's operations component rate allocation shall also be set equal to the facility's June 30, 2006, operations component rate allocation.

(b) The operations component rate allocation for facilities whose operations component rate is set equal to their June 30, 2006, operations component rate, shall be adjusted for economic trends and conditions as provided in RCW 74.46.431(7)(b).

(5) The operations component rate allocations calculated in accordance with this section shall be adjusted to the extent necessary to comply with RCW 74.46.421.

NEW SECTION. **Sec. 6.** A new section is added to chapter 74.46 RCW to read as follows:

(1) For the purposes of comparison, the department shall determine the following during the rate-setting periods for fiscal years 2008 and 2009:

(a) Each facility's June 30, 2007, combined rate for the direct care, support services, therapy, and operations components, less the quality maintenance fee; and

(b) Each facility's estimated rebased rates for the July 1, 2007, and July 1, 2008, rate-setting periods, for the direct care, support services, therapy, and operations rate components, less the quality maintenance fee, adjusted for economic trends and conditions under the 2007-2009 biennial appropriations act.

(2) For the 2007-2009 fiscal biennium, the department shall include a "hold harmless" provision after rebasing to 2005 costs for the July 1, 2007, through June 30, 2008, rate-setting period and the July 1, 2008, through June 30, 2009, rate-setting period. This "hold harmless" provision shall apply to facilities that meet both of the following conditions:

(a) Facilities whose estimated rebased rates calculated under subsection (1)(b) of this section are less than their June 30, 2007, rates calculated under subsection (1)(a) of this section; and

(b) Facilities whose combined adjusted costs per adjusted resident day in the direct care, support services, therapy, and operations cost centers were greater than the combined per resident day reimbursement rates for these cost centers in either calendar years 2004 or 2005.

For those facilities that meet the conditions in this subsection, the "hold harmless" provision shall ensure that for the July 1, 2007, through June 30, 2008, rate-setting period and for the July 1, 2008, through June 30, 2009, rate-setting period, the department shall set each facility's component rates in direct

care, support services, therapy, and operations to the facility's June 30, 2007, rate, less the quality maintenance fee, adjusted for economic trends and conditions specified in the 2007-2009 biennial appropriations act.

Sec. 7. RCW 74.46.020 and 2006 c 258 s 1 are each amended to read as follows:

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

(1) "Accrual method of accounting" means a method of accounting in which revenues are reported in the period when they are earned, regardless of when they are collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(2) "Appraisal" means the process of estimating the fair market value or reconstructing the historical cost of an asset acquired in a past period as performed by a professionally designated real estate appraiser with no pecuniary interest in the property to be appraised. It includes a systematic, analytic determination and the recording and analyzing of property facts, rights, investments, and values based on a personal inspection and inventory of the property.

(3) "Arm's-length transaction" means a transaction resulting from good-faith bargaining between a buyer and seller who are not related organizations and have adverse positions in the market place. Sales or exchanges of nursing home facilities among two or more parties in which all parties subsequently continue to own one or more of the facilities involved in the transactions shall not be considered as arm's-length transactions for purposes of this chapter. Sale of a nursing home facility which is subsequently leased back to the seller within five years of the date of sale shall not be considered as an arm's-length transaction for purposes of this chapter.

(4) "Assets" means economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles.

(5) "Audit" or "department audit" means an examination of the records of a nursing facility participating in the medicaid payment system, including but not limited to: The contractor's financial and statistical records, cost reports and all supporting documentation and schedules, receivables, and resident trust funds, to be performed as deemed necessary by the department and according to department rule.

(6) "Bad debts" means amounts considered to be uncollectible from accounts and notes receivable.

(7) "Beneficial owner" means:

(a) Any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares:

(i) Voting power which includes the power to vote, or to direct the voting of such ownership interest; and/or

(ii) Investment power which includes the power to dispose, or to direct the disposition of such ownership interest;

(b) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting himself or herself of beneficial ownership of an ownership interest or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the reporting requirements of this chapter;

(c) Any person who, subject to (b) of this subsection, has the right to acquire beneficial ownership of such ownership interest within sixty days, including but not limited to any right to acquire:

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

except that, any person who acquires an ownership interest or power specified in (c)(i), (ii), or (iii) of this subsection with the purpose or effect of changing or influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power;

(d) Any person who in the ordinary course of business is a pledgee of ownership interest under a written pledge agreement shall not be deemed to be the beneficial owner of such pledged ownership interest until the pledgee has taken all formal steps necessary which are required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised; except that:

(i) The pledgee agreement is bona fide and was not entered into with the purpose nor with the effect of changing or influencing the control of the contractor, nor in connection with any transaction having such purpose or effect, including persons meeting the conditions set forth in (b) of this subsection; and

(ii) The pledgee agreement, prior to default, does not grant to the pledgee:

(A) The power to vote or to direct the vote of the pledged ownership interest; or

(B) The power to dispose or direct the disposition of the pledged ownership interest, other than the grant of such power(s) pursuant to a pledge agreement under which credit is extended and in which the pledgee is a broker or dealer.

(8) "Capitalization" means the recording of an expenditure as an asset.

(9) "Case mix" means a measure of the intensity of care and services needed by the residents of a nursing facility or a group of residents in the facility.

(10) "Case mix index" means a number representing the average case mix of a nursing facility.

(11) "Case mix weight" means a numeric score that identifies the relative resources used by a particular group of a nursing facility's residents.

(12) "Certificate of capital authorization" means a certification from the department for an allocation from the biennial capital financing authorization for all new or replacement building construction, or for major renovation projects, receiving a certificate of need or a certificate of need exemption under chapter 70.38 RCW after July 1, 2001.

(13) "Contractor" means a person or entity licensed under chapter 18.51 RCW to operate a medicare and medicaid certified nursing facility, responsible for operational decisions, and contracting with the department to provide services to medicaid recipients residing in the facility.

(14) "Default case" means no initial assessment has been completed for a resident and transmitted to the department by the cut-off date, or an assessment is otherwise past due for the resident, under state and federal requirements.

(15) "Department" means the department of social and health services (DSHS) and its employees.

(16) "Depreciation" means the systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated useful life of the assets.

(17) "Direct care" means nursing care and related care provided to nursing facility residents. Therapy care shall not be considered part of direct care.

(18) "Direct care supplies" means medical, pharmaceutical, and other supplies required for the direct care of a nursing facility's residents.

(19) "Entity" means an individual, partnership, corporation, limited liability company, or any other association of individuals capable of entering enforceable contracts.

(20) "Equity" means the net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles.

(21) "Essential community provider" means a facility which is the only nursing facility within a commuting distance radius of at least forty minutes duration, traveling by automobile.

(22) "Facility" or "nursing facility" means a nursing home licensed in accordance with chapter 18.51 RCW, excepting nursing homes certified as institutions for mental diseases, or that portion of a multiservice facility licensed as a nursing home, or that portion of a hospital licensed in accordance with chapter 70.41 RCW which operates as a nursing home.

(23) "Fair market value" means the replacement cost of an asset less observed physical depreciation on the date for which the market value is being determined.

(24) "Financial statements" means statements prepared and presented in conformity with generally accepted accounting principles including, but not limited to, balance sheet, statement of operations, statement of changes in financial position, and related notes.

(25) "Generally accepted accounting principles" means accounting principles approved by the financial accounting standards board (FASB).

(26) "Goodwill" means the excess of the price paid for a nursing facility business over the fair market value of all net identifiable tangible and intangible assets acquired, as measured in accordance with generally accepted accounting principles.

(27) "Grouper" means a computer software product that groups individual nursing facility residents into case mix classification groups based on specific resident assessment data and computer logic.

(28) "High labor-cost county" means an urban county in which the median allowable facility cost per case mix unit is more than ten percent higher than the median allowable facility cost per case mix unit among all other urban counties, excluding that county.

(29) "Historical cost" means the actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architect's fees, and engineering studies.

(30) "Home and central office costs" means costs that are incurred in the support and operation of a home and central office. Home and central office costs include centralized services that are performed in support of a nursing facility. The department may exclude from this definition costs that are nonduplicative, documented, ordinary, necessary, and related to the provision of care services to authorized patients.

(31) "Imprest fund" means a fund which is regularly replenished in exactly the amount expended from it.

(32) "Joint facility costs" means any costs which represent resources which benefit more than one facility, or one facility and any other entity.

(33) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange for specified periodic payments. Elimination (due to any cause other than death or divorce) or addition of any party to the contract, expiration, or modification of any lease term in effect on January 1, 1980, or termination of the lease by either party by any means shall constitute a termination of the lease agreement. An extension or renewal of a lease agreement, whether or not pursuant to a renewal provision in the lease agreement, shall be considered a new lease agreement. A strictly formal change in the lease agreement which modifies the method, frequency, or manner in which the lease payments are made, but does not increase the total lease payment obligation of the lessee, shall not be considered modification of a lease term.

(34) "Medical care program" or "medicaid program" means medical assistance, including nursing care, provided under RCW 74.09.500 or authorized state medical care services.

(35) "Medical care recipient," "medicaid recipient," or "recipient" means an individual determined eligible by the department for the services provided under chapter 74.09 RCW.

(36) "Minimum data set" means the overall data component of the resident assessment instrument, indicating the strengths, needs, and preferences of an individual nursing facility resident.

(37) "Net book value" means the historical cost of an asset less accumulated depreciation.

(38) "Net invested funds" means the net book value of tangible fixed assets employed by a contractor to provide services under the medical care program, including land, buildings, and equipment as recognized and measured in conformity with generally accepted accounting principles.

(39) "Nonurban county" means a county which is not located in a metropolitan statistical area as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government.

(40) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

(41) "Owner" means a sole proprietor, general or limited partners, members of a limited liability company, and beneficial interest holders of five percent or more of a corporation's outstanding stock.

(42) "Ownership interest" means all interests beneficially owned by a person, calculated in the aggregate, regardless of the form which such beneficial ownership takes.

(43) "Patient day" or "resident day" means a calendar day of care provided to a nursing facility resident, regardless of payment source, which will include the day of admission and exclude the day of discharge; except that, when admission and discharge occur on the same day, one day of care shall be deemed to exist. A "medicaid day" or "recipient day" means a calendar day of care provided to a medicaid recipient determined eligible by the department for services provided under chapter 74.09 RCW, subject to the same conditions regarding admission and discharge applicable to a patient day or resident day of care.

(44) "Professionally designated real estate appraiser" means an individual who is regularly engaged in the business of providing real estate valuation services for a fee, and who is deemed qualified by a nationally recognized real estate appraisal educational organization on the basis of extensive practical appraisal experience, including the writing of real estate valuation reports as well as the passing of written examinations on valuation practice and theory, and who by virtue of membership in such organization is required to subscribe and adhere to certain standards of professional practice as such organization prescribes.

(45) "Qualified therapist" means:

(a) A mental health professional as defined by chapter 71.05 RCW;

(b) A mental retardation professional who is a therapist approved by the department who has had specialized training or one year's experience in treating or working with the mentally retarded or developmentally disabled;

(c) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has the equivalent education and clinical experience;

(d) A physical therapist as defined by chapter 18.74 RCW;

(e) An occupational therapist who is a graduate of a program in occupational therapy, or who has the equivalent of such education or training; and

(f) A respiratory care practitioner certified under chapter 18.89 RCW.

(46) "Rate" or "rate allocation" means the medicaid per-patient-day payment amount for medicaid patients calculated in accordance with the allocation methodology set forth in part E of this chapter.

(47) "Real property," whether leased or owned by the contractor, means the building, allowable land, land improvements, and building improvements associated with a nursing facility.

(48) "Rebased rate" or "cost-rebased rate" means a facility-specific component rate assigned to a nursing facility for a particular rate period established on desk-reviewed, adjusted costs reported for that facility covering at least six months of a prior calendar year designated as a year to be used for cost-rebasing payment rate allocations under the provisions of this chapter.

(49) "Records" means those data supporting all financial statements and cost reports including, but not limited to, all general and subsidiary ledgers, books of original entry, and transaction documentation, however such data are maintained.

(50) "Related organization" means an entity which is under common ownership and/or control with, or has control of, or is controlled by, the contractor.

(a) "Common ownership" exists when an entity is the beneficial owner of five percent or more ownership interest in the contractor and any other entity.

(b) "Control" exists where an entity has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution, whether or not it is legally enforceable and however it is exercisable or exercised.

(51) "Related care" means only those services that are directly related to providing direct care to nursing facility residents. These services include, but are not limited to, nursing direction and supervision, medical direction, medical records, pharmacy services, activities, and social services.

(52) "Resident assessment instrument," including federally approved modifications for use in this state, means a federally mandated, comprehensive nursing facility resident care planning and assessment tool, consisting of the minimum data set and resident assessment protocols.

(53) "Resident assessment protocols" means those components of the resident assessment instrument that use the minimum data set to trigger or flag a resident's potential problems and risk areas.

(54) "Resource utilization groups" means a case mix classification system that identifies relative resources needed to care for an individual nursing facility resident.

(55) "Restricted fund" means those funds the principal and/or income of which is limited by agreement with or direction of the donor to a specific purpose.

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

(57) "Support services" means food, food preparation, dietary, housekeeping, and laundry services provided to nursing facility residents.

(58) "Therapy care" means those services required by a nursing facility resident's comprehensive assessment and plan of care, that are provided by qualified therapists, or support personnel under their supervision, including related costs as designated by the department.

(59) "Title XIX" or "medicaid" means the 1965 amendments to the social security act, P.L. 89-07, as amended and the medicaid program administered by the department.

(60) "Urban county" means a county which is located in a metropolitan statistical area as determined and defined by the United States office of management and budget or other appropriate agency or office of the federal government.

(61) "Vital local provider" means a facility ((~~reporting a home office~~)) that meets the following qualifications:

(a) ((~~The~~)) It reports a home office with an address ((~~is~~)) located in Washington state; and

(b) The sum of medicaid days for all Washington facilities reporting ((~~the~~)) that home office as their home office was greater than two hundred fifteen thousand in 2003; and

(c) The facility was recognized as a "vital local provider" by the department as of April 1, 2007.

The definition of "vital local provider" shall expire, and have no force or effect, after June 30, 2007. After that date, no facility's payments under this chapter shall in any way be affected by its prior determination or recognition as a vital local provider.

NEW SECTION. **Sec. 8.** 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."

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Keiser and Parlette to Substitute Senate Bill No. 6158.

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

MOTION

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

On page 1, line 2 of the title, after "rates;" strike the remainder of the title and insert "amending RCW 74.46.410, 74.46.431, 74.46.506, 74.46.511, 74.46.521, and 74.46.020; adding a new section to chapter 74.46 RCW; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute Senate Bill No. 6158 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 declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6158.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6158 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; 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, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Voting nay: Senator Pridemore - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 6158, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

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

MESSAGE FROM THE HOUSE

April 20, 2007

MR. PRESIDENT:

The House receded from its amendment to SUBSTITUTE SENATE BILL NO. 5097 to page 2, line 15; insisted on its amendment to page 4, line 27, and passed the bill as amended by the House.
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5097.

Senator Rockefeller spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5097.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5097 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5097, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5097, as amended by the House, 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 SENATE BILL NO. 5097, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 20, 2007

MR. PRESIDENT:
The House has passed the following bills:
SENATE BILL NO. 5434,
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 20, 2007

MR. PRESIDENT:
The House concurred in Senate amendment{s} to the following bills and passed the bills as amended by the Senate:
SECOND SUBSTITUTE HOUSE BILL NO. 1277,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1303,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1432,
HOUSE BILL NO. 1674,
ENGROSSED HOUSE BILL NO. 1902
SECOND SUBSTITUTE HOUSE BILL NO. 2220,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2358,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 20, 2007

MR. PRESIDENT:
The House refuses to concur in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1128and asks the Senate for a conference thereon. Speaker has appointed the following members as Conferees:
Representatives: Sommers, Dunshee, and Alexander
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

On motion of Senator Prentice, the Senate granted the request of the House for a conference on Substitute House Bill No. 1128 and the Senate amendment(s) thereto.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Substitute House Bill No. 1128 and the House amendment(s) there to: Senators Prentice, Pridemore and Zarelli.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MESSAGE FROM THE HOUSE

April 20, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5557, with the following amendment: 5557-S2.E AMH FIN H3585.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.14.370 and 2004 c 130 s 2 are each amended to read as follows:

(1) The legislative authority of a rural county may impose a sales and use tax in accordance with the terms of this chapter. 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 county. The rate of tax shall not exceed ((~~0.08~~)) 0.09 percent of the selling price in the case of a sales tax or value of the article used in the case of a use tax, except that for rural counties with population densities between sixty and one hundred persons per square mile, the rate shall not exceed 0.04 percent before January 1, 2000.

(2) The tax imposed under subsection (1) of this section shall be deducted from the amount of tax otherwise required to

be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue shall perform the collection of such taxes on behalf of the county at no cost to the county.

(3)(a) Moneys collected under this section shall only be used to finance public facilities serving economic development purposes in rural counties. The public facility must be listed as an item in the officially adopted county overall economic development plan, or the economic development section of the county's comprehensive plan, or the comprehensive plan of a city or town located within the county for those counties planning under RCW 36.70A.040. For those counties that do not have an adopted overall economic development plan and do not plan under the growth management act, the public facility must be listed in the county's capital facilities plan or the capital facilities plan of a city or town located within the county.

(b) In implementing this section, the county shall consult with cities, towns, and port districts located within the county and the associate development organization serving the county to ensure that the expenditure meets the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection. Each county collecting money under this section shall report, as follows, to the office of the state auditor, ((~~no later than October 1st~~)) within one hundred fifty days after the close of each fiscal year((~~,~~)): (i) A list of new projects ((~~from~~)) begun during the ((~~prior~~)) fiscal year, showing that the county has used the funds for those projects consistent with the goals of chapter 130, Laws of 2004 and the requirements of (a) of this subsection; and (ii) expenditures during the fiscal year on projects begun in a previous year. Any projects financed prior to June 10, 2004, from the proceeds of obligations to which the tax imposed under subsection (1) of this section has been pledged shall not be deemed to be new projects under this subsection. No new projects funded with money collected under this section may be for justice system facilities.

(c) For the purposes of this section, (i) "public facilities" means bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroad, electricity, natural gas, buildings, structures, telecommunications infrastructure, transportation infrastructure, or commercial infrastructure, and port facilities in the state of Washington; and (ii) "economic development purposes" means those purposes which facilitate the creation or retention of businesses and jobs in a county.

(4) No tax may be collected under this section before July 1, 1998. No tax may be collected under this section by a county more than twenty-five years after the date that a tax is first imposed under this section.

(5) For purposes of this section, "rural county" means a county with a population density of less than one hundred persons per square mile or a county smaller than two hundred twenty-five square miles as determined by the office of financial management and published each year by the department for the period July 1st to June 30th.

NEW SECTION. **Sec. 2.** This act takes effect August 1, 2007."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5557.

Senator Hargrove spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5557.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5557 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5557, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5557, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 2; 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, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Weinstein and Zarelli - 47

Absent: Senators Kline and Tom - 2

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5557, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 19, 2007

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6044 and again asks Senate to concur therein.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6044.

Senator Rockefeller spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6044.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6044 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6044, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6044, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 1; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, 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, Swecker, Tom, Weinstein and Zarelli - 46

Voting nay: Senators Holmquist and Stevens - 2

Absent: Senator Kline - 1

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6044, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

Pursuant to Joint Rule 20, on motion of Senator Haugen, the provision requiring a twenty-four hour interval before consideration of the conference committee report on Engrossed Substitute House bill No. 1094 was suspended without objection.

REPORT OF THE CONFERENCE REPORT
Engrossed Substitute House Bill No. 1094
April 20, 2007

MR. PRESIDENT:
MR. SPEAKER:

We of your conference committee, to whom was referred Engrossed Substitute House Bill No. 1094, have had the same under consideration and recommend that all previous amendments not be adopted and that the following striking amendment be adopted:

Strike everything after the enacting clause and insert the following:

"2007-09 BIENNIUM

NEW SECTION. **Sec. 1.** (1) The transportation budget of the state is hereby adopted and, subject to the provisions set forth, the several amounts specified, or as much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds named to the designated state agencies and offices for employee compensation and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 2009.

(2) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this act.

(a) "Fiscal year 2008" or "FY 2008" means the fiscal year ending June 30, 2008.

(b) "Fiscal year 2009" or "FY 2009" means the fiscal year ending June 30, 2009.

(c) "FTE" means full-time equivalent.

(d) "Lapse" or "revert" means the amount shall return to an unappropriated status.

(e) "Provided solely" means the specified amount may be spent only for the specified purpose. Unless otherwise specifically authorized in this act, any portion of an amount provided solely for a specified purpose which is not expended subject to the specified conditions and limitations to fulfill the specified purpose shall lapse.

(f) "Reappropriation" means appropriation and, unless the context clearly provides otherwise, is subject to the relevant conditions and limitations applicable to appropriations.

(g) "LEAP" means the legislative evaluation and accountability program committee.

GENERAL GOVERNMENT AGENCIES--OPERATING

NEW SECTION. **Sec. 101. FOR THE UTILITIES AND TRANSPORTATION COMMISSION**
Grade Crossing Protective Account--State Appropriation $505,000

NEW SECTION. **Sec. 102. FOR THE OFFICE OF FINANCIAL MANAGEMENT**
Motor Vehicle Account--State Appropriation $3,054,000
Puget Sound Ferry Operations Account--State Appropriation $100,000
TOTAL APPROPRIATION $3,154,000

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

(1) $2,545,000 of the motor vehicle account--state appropriation is provided solely for the office of regulatory assistance integrated permitting project.

(2) $75,000 of the motor vehicle account state appropriation is provided solely to address transportation budget and reporting requirements.

NEW SECTION. **Sec. 103. FOR THE MARINE EMPLOYEES COMMISSION**
Puget Sound Ferry Operations Account--State Appropriation $422,000

NEW SECTION. **Sec. 104. FOR THE STATE PARKS AND RECREATION COMMISSION**
Motor Vehicle Account--State Appropriation $985,000

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

NEW SECTION. **Sec. 105. FOR THE DEPARTMENT OF AGRICULTURE**
Motor Vehicle Account--State Appropriation $1,358,000

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

(1) $351,000 of the motor vehicle account--state appropriation is provided solely for costs associated with the motor fuel quality program.

(2) $1,007,000 of the motor vehicle account--state appropriation is provided solely to test the quality of biofuel. The department must test fuel quality at the biofuel manufacturer, distributor, and retailer.

NEW SECTION. **Sec. 106. FOR THE DEPARTMENT OF ARCHEOLOGY AND HISTORIC PRESERVATION**
Motor Vehicle Account--State Appropriation $223,000

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

NEW SECTION. **Sec. 107. FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE**
Motor Vehicle Account--State Appropriation $1,595,000

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

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

(2) $795,000 of the motor vehicle account--state appropriation is provided solely for development of a new transportation capital budgeting system and transition of a copy

of the transportation executive information system (TEIS) to LEAP. At a minimum, the new budgeting system development effort must provide comprehensive schematic diagrams of the current and proposed transportation capital budget process, information flows, and data exchanges; common, agreed-upon data definitions and business rules; detailed transportation capital budget data and system requirements; and a strategy for implementation, including associated costs and a timeframe.

NEW SECTION. **Sec. 108. FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE** As part of its 2007-09 biennium workplan, the committee shall:

(1) Review the Washington state ferries' assignment of preservation costs as required by Engrossed Substitute House Bill No. 2358, for fiscal year 2008, to determine whether costs are capital costs and whether they meet the statutory requirements for preservation activities, and report its findings to the legislature not later than January 2009.

(2) Review the Washington state ferries' implementation of the life cycle cost model, as required by Engrossed Substitute House Bill No. 2358, and report to the legislature not later than June 30, 2009, on whether the model:

(a) Complies with available industry standards or department-adopted standard life cycles derived from the experience of similar public and private entities when industry standards are not available;

(b) Is maintained and updated when asset inspections are made;

(c) Excludes utilities and other systems that are not replaced on a standard life cycle;

(d) Provides that all assets in the life-cycle cost model are inspected and updated for asset condition at least every three years; and

(e) Excludes assets not yet built.

(3) The committee shall solicit input regarding the study workplan from the joint transportation committee.

TRANSPORTATION AGENCIES--OPERATING

NEW SECTION. **Sec. 201. FOR THE WASHINGTON TRAFFIC SAFETY COMMISSION**

Highway Safety Account--State Appropriation $2,609,000
Highway Safety Account--Federal Appropriation . $15,880,000
School Zone Safety Account--State Appropriation . $3,300,000
TOTAL APPROPRIATION $21,789,000

NEW SECTION. **Sec. 202. FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account--State Appropriation . . $907,000
Motor Vehicle Account--State Appropriation $2,075,000
County Arterial Preservation Account--State Appropriation $1,399,000
TOTAL APPROPRIATION $4,381,000

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

NEW SECTION. **Sec. 203. FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Urban Arterial Trust Account--State Appropriation . $1,793,000
Transportation Improvement Account--State Appropriation $1,795,000
TOTAL APPROPRIATION $3,588,000

NEW SECTION. **Sec. 204. FOR THE BOARD OF PILOTAGE COMMISSIONERS**

Pilotage Account--State Appropriation $1,156,000

NEW SECTION. **Sec. 205. FOR THE JOINT TRANSPORTATION COMMITTEE**

Motor Vehicle Account--State Appropriation $2,103,000
Multimodal Transportation Account--State Appropriation $550,000
TOTAL APPROPRIATION $2,653,000

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

(1) $500,000 of the motor vehicle account--state appropriation is for establishing a workgroup to implement Engrossed Substitute House Bill No. 2358 (regarding state ferries) and review other matters relating to Washington state ferries. The cochairs of the committee shall establish the workgroup comprising committee members or their designees, an appointee by the governor, and other stakeholders as appointed by the cochairs, to assist in the committee's work. The workgroup shall report the progress of its tasks to the transportation committees of the legislature by December 15, 2007. The workgroup is tasked with the following:

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

(i) The Washington transportation commission's development and interpretation of a survey of ferry customers;

(ii) The department of transportation's analysis and reestablishment of vehicle level of service standards. In reestablishing the standards, consideration must be given to whether boat wait is the appropriate measure;

(iii) The department's development of pricing policy proposals. In developing these policies, the policy, in effect on some routes, of collecting fares in only one direction must be evaluated to determine whether one-way fare pricing best serves the ferry system;

(iv) The department's development of operational strategies;

(v) The department's development of terminal design standards; and

(vi) The department's development of a long-range capital plan;

(b) Reviewing the following Washington state ferry programs:

(i) Ridership demand forecast;

(ii) Updated life cycle cost model, as directed by Engrossed Substitute House Bill No. 2358;

(iii) Administrative operating costs, nonlabor and nonfuel operating costs, Eagle Harbor maintenance facility program and maintenance costs, administrative and systemwide capital costs, and vessel preservation costs; and

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

(c) Making recommendations regarding:

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

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

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

(2) $250,000 of the motor vehicle account--state appropriation and $250,000 of the multimodal transportation account--state appropriation are for the implementation of Substitute Senate Bill No. 5207.

(3) $300,000 of the multimodal transportation account--state appropriation is for implementing Substitute House Bill No.

1694 (coordinated transportation). If Substitute House Bill No. 1694 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

NEW SECTION. **Sec. 206. FOR THE TRANSPORTATION COMMISSION**

Motor Vehicle Account--State Appropriation $2,276,000
Multimodal Transportation Account--State Appropriation $112,000
TOTAL APPROPRIATION $2,388,000

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

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

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

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

NEW SECTION. **Sec. 207. FOR THE FREIGHT MOBILITY STRATEGIC INVESTMENT BOARD**

Motor Vehicle Account--State Appropriation $695,000

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

(1) The freight mobility strategic investment board shall, on a quarterly basis, provide status reports to the office of financial management and the transportation committees of the legislature on the delivery of projects funded by this act.

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

NEW SECTION. **Sec. 208. FOR THE WASHINGTON STATE PATROL--FIELD OPERATIONS BUREAU**

State Patrol Highway Account--State Appropriation $225,445,000
State Patrol Highway Account--Federal Appropriation $10,602,000
State Patrol Highway Account--Private/Local Appropriation $410,000
TOTAL APPROPRIATION . . . $236,457,000

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

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol.

(2) In addition to the user fees, the patrol shall transfer into the state patrol nonappropriated airplane revolving account under RCW 43.79.470 no more than the amount of appropriated state patrol highway account and general fund funding necessary to cover the costs for the patrol's use of the aircraft. The state patrol highway account and general fund--state funds shall be transferred proportionately in accordance with a cost allocation that differentiates between highway traffic enforcement services and general policing purposes.

(3) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the governor and transportation committees of the senate and house of representatives by September 30th of each year.

(4) $1,662,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1304 (commercial vehicle enforcement). If Substitute House Bill No. 1304 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(5) During the fiscal year 2008, the Washington state patrol shall continue to perform traffic accident investigations on Thurston, Mason, and Lewis county roads, and shall work with the counties to transition the traffic accident investigations on county roads to the counties by July 1, 2008.

(6) $100,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Substitute House Bill No. 1417 (health benefits for surviving dependents). If Substitute House Bill No. 1417 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(7) $3,300,000 of the state patrol highway account--state appropriation is provided solely for the salaries and benefits associated with accretion in the number of troopers employed above 1,158 authorized commissioned troopers.

NEW SECTION. **Sec. 209. FOR THE WASHINGTON STATE PATROL--INVESTIGATIVE SERVICES BUREAU**

State Patrol Highway Account--State Appropriation $1,300,000

NEW SECTION. **Sec. 210. FOR THE WASHINGTON STATE PATROL--TECHNICAL SERVICES BUREAU**

State Patrol Highway Account--State Appropriation $103,157,000
State Patrol Highway Account--Private/Local Appropriation $2,008,000
TOTAL APPROPRIATION . . . $105,165,000

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

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

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

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

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

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

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

NEW SECTION. **Sec. 211. FOR THE WASHINGTON STATE PATROL--CRIMINAL HISTORY AND BACKGROUND CHECKS.** In accordance with RCW 10.97.100 and chapter 43.43 RCW, the Washington state patrol is authorized to perform criminal history and background checks for state and local agencies and nonprofit and other private entities and disseminate the records resulting from these activities. The Washington state patrol is required to charge a fee for these activities, for which it is the policy of the state of Washington that the fees cover the direct and indirect costs of performing the criminal history and background checks and disseminating the information. For each type of criminal history and background check and dissemination of these records, the Washington state patrol shall, as nearly as practicable, set fees at levels sufficient to cover the direct and indirect costs. Pursuant to RCW 43.135.055, during the 2007-2009 fiscal biennium, the Washington state patrol may increase fees in excess of the fiscal growth factor if the increases are necessary to fully fund the cost of supervision and regulation.

NEW SECTION. **Sec. 212. FOR THE DEPARTMENT OF LICENSING**

Marine Fuel Tax Refund Account--State Appropriation $32,000
Motorcycle Safety Education Account--State
Appropriation $3,905,000
Wildlife Account--State Appropriation $843,000
Highway Safety Account--State Appropriation . . $141,953,000
Highway Safety Account--Federal Appropriation . . . $233,000
Motor Vehicle Account--State Appropriation $79,230,000
Motor Vehicle Account--Private/Local Appropriation
. . . . . $1,372,000
Motor Vehicle Account--Federal Appropriation $117,000
Department of Licensing Services Account--State
Appropriation $3,540,000
Washington State Patrol Highway Account--State
Appropriation $1,145,000
TOTAL APPROPRIATION . . . $232,370,000

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

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

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

(3) $8,872,000 of the highway safety account--state appropriation is provided solely for costs associated with the systems development and issuance of enhanced drivers' licenses and identicards to facilitate crossing the Canadian border. If Engrossed Substitute House Bill No. 1289 (relating to the issuance of enhanced drivers' licenses and identicards) is not enacted by June 30, 2007, the amount provided in this subsection shall lapse. The department may expend funds only after acceptance of the enhanced Washington state driver's license for border crossing purposes by the Canadian and United States governments. The department may expend funds only after prior written approval of the director of financial management. Of the amount provided in this subsection, up to $1,000,000 is for a statewide educational campaign, which must include coordination with existing public and private entities, to inform the Washington public of the benefits of the new enhanced drivers' licenses and identicards.

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

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

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

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

(8) Within the amounts appropriated in this section, the department shall, working with the legislature, develop a proposal to streamline title and registration statutes to specifically address apparent conflicts, fee distribution, and other recommendations by the department that are revenue neutral and which do not change legislative policy. The department shall report the results of this review to the transportation committees of the legislature by December 1, 2007.

NEW SECTION. **Sec. 213. FOR THE DEPARTMENT OF TRANSPORTATION--TOLL OPERATIONS AND MAINTENANCE--PROGRAM B**

High-Occupancy Toll Lanes Account--State
Appropriation $2,596,000
Motor Vehicle Account--State Appropriation $5,600,000
Tacoma Narrows Toll Bridge Account--State
Appropriation $28,218,000
TOTAL APPROPRIATION $36,414,000

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

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

(2) The department shall solicit private donations to fund activities related to the opening ceremonies of the Tacoma Narrows bridge project.

NEW SECTION. **Sec. 214. FOR THE DEPARTMENT OF TRANSPORTATION--INFORMATION TECHNOLOGY--PROGRAM C**

Transportation Partnership Account--State
Appropriation $4,556,000
Motor Vehicle Account--State Appropriation $67,613,000
Motor Vehicle Account--Federal Appropriation . . . $1,096,000
Puget Sound Ferry Operations Account--State
Appropriation $9,192,000
Multimodal Transportation Account--State
Appropriation $363,000

Transportation 2003 Account (Nickel Account)--State
Appropriation $4,000,000
TOTAL APPROPRIATION $86,820,000

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

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

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

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

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

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

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

NEW SECTION. **Sec. 215. FOR THE DEPARTMENT OF TRANSPORTATION--FACILITY MAINTENANCE, OPERATIONS AND CONSTRUCTION--PROGRAM D--OPERATING**

Motor Vehicle Account--State Appropriation $34,569,000

NEW SECTION. **Sec. 216. FOR THE DEPARTMENT OF TRANSPORTATION--AVIATION--PROGRAM F**

Aeronautics Account--State Appropriation $6,889,000
Aeronautics Account--Federal Appropriation $2,150,000
Multimodal Transportation Account--State Appropriation
. . . . . $631,000
TOTAL APPROPRIATION $9,670,000

The appropriations in this section are subject to the following conditions and limitations: The entire multimodal transportation account--state appropriation is provided solely for the aviation planning council as provided for in RCW 47.68.410.

NEW SECTION. **Sec. 217. FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM DELIVERY MANAGEMENT AND SUPPORT--PROGRAM H**

Transportation Partnership Account--State
Appropriation $2,422,000
Motor Vehicle Account--State Appropriation $50,446,000
Motor Vehicle Account--Federal Appropriation $500,000
Multimodal Transportation Account--State
Appropriation $250,000
Transportation 2003 Account (Nickel Account)--State
Appropriation $2,422,000
TOTAL APPROPRIATION $56,040,000

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

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

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

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

NEW SECTION. **Sec. 218. FOR THE DEPARTMENT OF TRANSPORTATION--ECONOMIC PARTNERSHIPS--PROGRAM K**

Motor Vehicle Account--State Appropriation $1,151,000
Multimodal Transportation Account--State Appropriation
. . . . . $300,000
TOTAL APPROPRIATION $1,451,000

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

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

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

NEW SECTION. **Sec. 219. FOR THE DEPARTMENT OF TRANSPORTATION--HIGHWAY MAINTENANCE--PROGRAM M**

Motor Vehicle Account--State Appropriation . . . $321,888,000
Motor Vehicle Account--Federal Appropriation . . . $2,000,000
Motor Vehicle Account--Private/Local Appropriation
. . . . . $5,797,000
TOTAL APPROPRIATION . . . $329,685,000

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 220. FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q--OPERATING**

Motor Vehicle Account--State Appropriation $52,040,000
Motor Vehicle Account--Federal Appropriation . . . $2,050,000
Motor Vehicle Account--Private/Local Appropriation $127,000
TOTAL APPROPRIATION $54,217,000

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 221. FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION MANAGEMENT AND SUPPORT--PROGRAM S**

Motor Vehicle Account--State Appropriation $28,215,000
Motor Vehicle Account--Federal Appropriation $30,000

Puget Sound Ferry Operations Account--State
Appropriation $1,321,000
Multimodal Transportation Account--State
Appropriation $1,223,000
TOTAL APPROPRIATION $30,789,000

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

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

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

NEW SECTION. **Sec. 222. FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION PLANNING, DATA, AND RESEARCH--PROGRAM T**

Motor Vehicle Account--State Appropriation $30,698,000
Motor Vehicle Account--Federal Appropriation . . $19,163,000
Multimodal Transportation Account--State
Appropriation $1,029,000
Multimodal Transportation Account--Federal
Appropriation $2,809,000
Multimodal Transportation Account--Private/Local
Appropriation $100,000
TOTAL APPROPRIATION $53,799,000

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 223. FOR THE DEPARTMENT OF TRANSPORTATION--CHARGES FROM OTHER AGENCIES--PROGRAM U**

Motor Vehicle Account--State Appropriation $66,342,000
Motor Vehicle Account--Federal Appropriation $400,000
Multimodal Transportation Account--State
Appropriation $259,000
TOTAL APPROPRIATION $67,001,000

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

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

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

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

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

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

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

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

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

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

(h) FOR OFFICE OF MINORITIES AND WOMEN BUSINESS

ENTERPRISES $1,070,000
(i) FOR USE OF FINANCIAL SYSTEMS PROVIDED BY THE OFFICE OF FINANCIAL MANAGEMENT . . $930,000
(j) FOR POLICY ASSISTANCE FROM THE DEPARTMENT OF INFORMATION SERVICES $1,138,000
(k) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE $8,859,000
(l) FOR LEGAL SERVICE PROVIDED BY THE ATTORNEY GENERAL'S OFFICE FOR THE SECOND PHASE OF THE BOLDT LITIGATION $158,000

NEW SECTION. **Sec. 224. FOR THE DEPARTMENT OF TRANSPORTATION--PUBLIC TRANSPORTATION--PROGRAM V**

Regional Mobility Grant Program Account--State Appropriation $40,000,000
Multimodal Transportation Account--State Appropriation $85,202,000
Multimodal Transportation Account--Federal Appropriation $2,582,000
Multimodal Transportation Account--Private/Local Appropriation $291,000
TOTAL APPROPRIATION . . . $128,075,000

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 225. FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X**

Puget Sound Ferry Operations Account--State
Appropriation $412,189,000
Multimodal Transportation Account--State
Appropriation $1,830,000
TOTAL APPROPRIATION . . . $414,019,000

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec. 226. FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--OPERATING**

Multimodal Transportation Account--State Appropriation
. . . . . $37,034,000

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

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

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

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

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

(3) No Amtrak Cascade runs may be eliminated.

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

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

NEW SECTION. **Sec. 227. FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--OPERATING**

Motor Vehicle Account--State Appropriation $8,630,000
Motor Vehicle Account--Federal Appropriation . . . $2,567,000
TOTAL APPROPRIATION $11,197,000

TRANSPORTATION AGENCIES--CAPITAL

NEW SECTION. **Sec. 301. FOR THE WASHINGTON STATE PATROL**

State Patrol Highway Account--State Appropriation $2,934,000

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

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

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

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

NEW SECTION. **Sec. 302. FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account--State Appropriation $64,000,000
Motor Vehicle Account--State Appropriation $2,368,000
County Arterial Preservation Account--State
Appropriation $32,861,000
TOTAL APPROPRIATION $99,229,000

The appropriations in this section are subject to the following conditions and limitations: $2,069,000 of the motor vehicle account--state appropriation may be used for county ferries. The board shall review the requests for county ferry funding in consideration with other projects funded from the board. If the board determines these projects are a priority over the projects in the rural arterial and county arterial preservation grant programs, then they may provide funding for these requests.

NEW SECTION. **Sec. 303. FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Small City Pavement and Sidewalk Account--State
Appropriation $4,500,000
Urban Arterial Trust Account--State Appropriation
. . . . . $129,600,000
Transportation Improvement Account--State
Appropriation $90,643,000
TOTAL APPROPRIATION . . . $224,743,000

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

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

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

NEW SECTION. **Sec. 304. FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)--CAPITAL**

Motor Vehicle Account--State Appropriation $6,202,000

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

(1) $584,000 of the motor vehicle account--state appropriation is for statewide administration.

(2) $750,000 of the motor vehicle account--state appropriation is for regional minor projects.

(3) $568,000 of the motor vehicle account--state appropriation is for the Olympic region headquarters property payments.

(4) By September 1, 2007, the department shall submit to the transportation committees of the legislature predesign plans, developed using the office of financial management's predesign process, for all facility replacement projects to be proposed in the facilities 2008 budget proposal.

(5) $1,600,000 of the motor vehicle account--state appropriation is for site acquisition for the Tri-cities area maintenance facility.

(6) $2,700,000 of the motor vehicle account--state appropriation is for site acquisition for the Vancouver light industrial facility.

(7) The department shall work with the office of financial management and staff of the transportation committees of the legislature to develop a statewide inventory of all department-owned surplus property that is suitable for development for department facilities or that should be sold. By December 1, 2008, the department shall report to the joint transportation committee on the findings of this study.

NEW SECTION. **Sec. 305. FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I**

Transportation Partnership Account--State
Appropriation $1,226,516,000
Motor Vehicle Account--State Appropriation $82,045,000
Motor Vehicle Account--Federal Appropriation . $404,090,000
Motor Vehicle Account--Private/Local
Appropriation $49,157,000
Special Category C Account--State Appropriation . $29,968,000
Tacoma Narrows Toll Bridge Account--State
Appropriation $142,484,000
Transportation 2003 Account (Nickel Account)--State
Appropriation $1,100,746,000
Freight Congestion Relief Account--State
Appropriation $40,000,000
TOTAL APPROPRIATION . $3,075,006,000

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

(1) The entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2007-1, Highway Improvement Program (I) as developed April 20, 2007. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) The department shall not commence construction on any part of the state route number 520 bridge replacement and HOV project until a record of decision has been reached providing reasonable assurance that project impacts will be avoided, minimized, or mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality as a result of repairs and improvements made to the state route 520 bridge and its connecting roadways, and that any such impacts will be addressed through engineering design choices, mitigation measures, or a combination of both. The requirements of this section shall not apply to off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.

(3) Within the amounts provided in this section, $1,991,000 of the transportation partnership account--state appropriation, $1,656,000 of the motor vehicle account--federal appropriation, and $8,343,000 of the transportation 2003 account (nickel account)--state appropriation are for project 109040T as identified in the LEAP transportation document in subsection (1) of this section: I-90/Two Way Transit-Transit and HOV Improvements - Stage 1. Expenditure of the funds on construction is contingent upon revising the access plan for Mercer Island traffic such that Mercer Island traffic will have access to the outer roadway high occupancy vehicle (HOV) lanes during the period of operation of such lanes following the removal of Mercer Island traffic from the center roadway and prior to conversion of the outer roadway HOV lanes to high occupancy toll (HOT) lanes. Sound transit may only have access to the center lanes when alternative R8A is complete.

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

(5) The funding described in this section includes $8,095,541 of the transportation 2003 account (nickel account)--state appropriation and $237,241 of the motor vehicle account--private/local appropriation, which are for the SR 519 project. The total project is expected to cost no more than $74,400,000 including $11,950,000 in contributions from project partners.

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

(a) Prepare a draft directive that establishes how each community's priorities and concerns may be identified and addressed in order to allow consideration of a community's preferred methods of advanced visual shielding and aesthetic screening, for the purpose of improving the noise environment of major state roadway projects in locations that do not meet the criteria for standard noise barriers. The intent is for these provisions to be supportable by existing project budgets. The directive shall also include direction on the coordination and selection of visual and aesthetic options with local communities. The draft directive shall be provided to the standing transportation committees of the legislature by January 2008; and

(b) Pilot the draft directive established in (a) of this subsection in two locations along major state roadways. If practicable, the department should begin work on the pilot projects while the directive is being developed. One pilot project shall be located in Clark county on a significant capacity improvement project. The second pilot project shall be located in urban King county, which shall be on a corridor highway project through mixed land use areas that is nearing or under construction. The department shall provide a written report to the standing transportation committees of the legislature on the findings of the Clark county pilot project by January 2009, and the King county pilot project by January 2010. Based on results of the pilot projects, the department shall update its design manual, environmental procedures, or other appropriate documents to incorporate the directive.

(7) Funding allocated for mitigation costs is provided solely for the purpose of project impact mitigation, and shall not be used to develop or otherwise participate in the environmental assessment process.

(8) If the "Green Highway" provisions of Engrossed Second Substitute House Bill No. 1303 (cleaner energy) are enacted, the department shall erect signs on the interstate highways included in those provisions noting that these interstates have been designated "Washington Green Highways."

(9) If on the I-405/I-90 to SE 8th Street Widening project the department finds that there is an alternative investment to preserve reliable rail accessibility to major manufacturing sites within the I-405 corridor that are less expensive than replacing the Wilburton Tunnel, the department may enter into the necessary agreements to implement that alternative provided that costs remain within the approved project budget.

(10) The department should consider using mitigation banking on appropriate projects whenever possible, without increasing the cost to projects. The department should consider using the advanced environmental mitigation revolving account (AEMRA) for corridor and watershed based mitigation opportunities, in addition to project specific mitigation. However, the department shall not use agricultural lands of long-term commercial significance, as that term is used under chapter 36.70A RCW, for mitigation banking.

(11) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P, including, but not limited to, the SR 518, SR 519, SR 520, and Alaskan Way Viaduct projects.

(12) $250,000 of the motor vehicle account--state appropriation is provided solely for an inland pacific hub study to develop an inland corridor for the movement of freight and goods to and through eastern Washington; and $500,000 of the motor vehicle account--state appropriation is provided solely for the SR3/SR16 corridor study to plan and prioritize state and local improvements needed over the next 10-20 years to support safety, capacity development, and economic development within the corridor.

(13) The department shall, on a quarterly basis beginning July 1, 2007, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account and transportation 2003 account (nickel account) projects relating to bridge rail, guard rail, fish passage barrier removal, and roadside safety projects should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(14) The department shall apply for the competitive portion of federal transit administration funds for eligible transit-related costs of the SR 520 bridge replacement and HOV project. The federal funds described in this subsection shall not include those federal transit administration funds distributed by formula.

(15) Funding provided by this act for the Alaskan Way Viaduct project shall not be spent for preliminary engineering, design, right-of-way acquisition, or construction on the project if completion of the project would more likely than not reduce the capacity of the facility. Capacity shall be measured by including the consideration of the efficient movement of people and goods on the facility.

(16) The governor shall convene a collaborative process involving key leaders to determine the final project design for the Alaskan Way Viaduct.

(a) The process shall be guided by the following common principles: Public safety must be maintained; the final project shall meet both capacity and mobility needs; and taxpayer dollars must be spent responsibly.

(b) The state's project expenditures shall not exceed $2,800,000,000.

(c) A final design decision shall be made by December 31, 2008.

(17) During the 2007-09 biennium, the department shall proceed with a series of projects on the Alaskan Way Viaduct that are common to any design alternative. Those projects include relocation of two electrical transmission lines, Battery Street tunnel upgrades, seismic upgrades from Lenora to the Battery Street tunnel, viaduct removal from Holgate to King Street, and development of transit enhancements and other improvements to mitigate congestion during construction.

(18) The entire freight congestion relief account--state appropriation is contingent upon the enactment during the 2007-2009 fiscal biennium of a bill, resulting from the study established in Substitute Senate Bill No. 5207, that makes available funding to support project expenditures funded from the freight congestion relief account created in Substitute Senate Bill No. 5207. If such a funding bill is not enacted by June 30, 2009, the entire freight congestion relief account--state appropriation shall lapse.

(19) The transportation 2003 account (nickel account)--state appropriation includes up to $874,610,000 in proceeds from the sale of bonds authorized by RCW 47.10.861.

(20) The transportation partnership account--state appropriation includes up to $900,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

(21) The special category C account--state appropriation includes up to $22,080,000 in proceeds from the sale of bonds authorized in Substitute House Bill No. 2394. If Substitute House Bill No. 2394 is not enacted by June 30, 2007, the amount provided in this subsection shall lapse.

(22) $4,500,000 of the motor vehicle account--federal appropriation is provided solely for cost increases on the SR 304/Bremerton tunnel project.

(23) $3,000,000 of the motor vehicle account--state appropriation is provided solely for initial design and right of way work on a new southbound SR 509 to eastbound SR 518 freeway-to-freeway elevated ramp.

(24) $500,000 of the motor vehicle account--federal appropriation to the SR 543/I-5 to Canadian border project is provided solely for retaining wall facia improvements.

(25) $1,400,000 of the motor vehicle account--federal appropriation is provided solely for the Westview school noise wall.

(26) $1,600,000 of the motor vehicle account--federal appropriation is provided solely for two noise walls on SR 161 in King county.

(27) $900,000 of the motor vehicle account--state appropriation and $100,000 of the motor vehicle account--federal appropriation are provided solely for interchange design and planning work on US 12 at A street and tank farm road.

NEW SECTION. **Sec. 306. FOR THE DEPARTMENT OF TRANSPORTATION--PRESERVATION--PROGRAM P**

Transportation Partnership Account--State
Appropriation $220,164,000
Motor Vehicle Account--State Appropriation $71,392,000
Motor Vehicle Account--Federal Appropriation . $425,161,000
Motor Vehicle Account--Private/Local Appropriation
. . . . . $15,285,000
Transportation 2003 Account (Nickel Account)--State
Appropriation $5,122,000
Puyallup Tribal Settlement Account--State
Appropriation $11,000,000
TOTAL APPROPRIATION . . . $748,124,000

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

(1) The entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2007-1, Highway Preservation Program (P) as developed April 20, 2007. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(2) $295,000 of the motor vehicle account--federal appropriation and $5,000 of the motor vehicle account--state appropriation are provided solely for the department to determine the most cost efficient way to replace the current Keller ferry. Options reviewed shall not include an expansion of the current capacity of the Keller ferry.

(3) $5,513,000 of the transportation partnership account--state appropriation is provided solely for the purposes of settling all identified and potential claims from the Lower Elwha Klallam Tribe related to the construction of a graving dock facility on the graving dock property. In the matter of *Lower Elwha Klallam Tribe et al v. State et al,* Thurston county superior court, cause no. 05-2-01595-8, the Lower Elwha Klallam Tribe and the state of Washington entered into a settlement agreement that settles all claims related to graving dock property and associated construction and releases the state from all claims related to the construction of the graving dock facilities. The expenditure of this appropriation is contingent on the conditions and limitations set forth in subsections (a) and (b) of this subsection.

(a) $2,000,000 of the transportation partnership account--state appropriation is provided solely for the benefit of the Lower Elwha Klallam Tribe to be disbursed by the department in accordance with terms and conditions of the settlement agreement.

(b) $3,513,000 of the transportation partnership account--state appropriation is provided solely for the department's remediation work on the graving dock property in accordance with the terms and conditions of the settlement agreement.

(4) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Programs I and P, including, but not limited to, the SR 518, SR 519, SR 520, and Alaskan Way Viaduct projects.

(5) The department shall, on a quarterly basis beginning July 1, 2007, provide to the office of financial management and the legislature reports providing the status on each active project funded in part or whole by the transportation 2003 account (nickel account) or the transportation partnership account. Funding provided at a programmatic level for transportation partnership account projects relating to seismic bridges should be reported on a programmatic basis. Projects within this programmatic level funding should be completed on a priority basis and scoped to be completed within the current programmatic budget. Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(6) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(7) $2,604,501 of the motor vehicle account--federal appropriation and $3,000,000 of the motor vehicle account--state appropriation are for expenditures on damaged state roads due to flooding, mudslides, rock fall, or other unforeseen events.

(8) $9,665 of the motor vehicle account--state appropriation, $12,652,812 of the motor vehicle account--federal appropriation, and $138,174,581 of the transportation partnership account--state appropriation are provided solely for the Hood Canal bridge project.

NEW SECTION. **Sec. 307. FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q--CAPITAL**

Motor Vehicle Account--State Appropriation $9,212,000
Motor Vehicle Account--Federal Appropriation . . $15,951,000
Motor Vehicle Account--Private/Local Appropriation . $74,000
TOTAL APPROPRIATION $25,237,000

The appropriations in this section are subject to the following conditions and limitations: The motor vehicle account--state appropriation includes $8,833,000 provided solely for state matching funds for federally selected competitive grant or congressional earmark projects. These moneys shall be placed into reserve status until such time as federal funds are secured that require a state match.

NEW SECTION. **Sec. 308. FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W**

Puget Sound Capital Construction Account--State
Appropriation $139,139,000
Puget Sound Capital Construction Account--Federal
Appropriation $66,145,000
Multimodal Transportation Account--State
Appropriation $4,100,000
Transportation 2003 Account (Nickel Account)--State
Appropriation $76,525,000
TOTAL APPROPRIATION . . . $285,909,000

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

(1) $6,432,000 of the Puget Sound capital construction account--state appropriation is provided solely for emergency capital costs.

(2) $16,567,000 of the Puget Sound capital construction account--state appropriation and $4,100,000 of the multimodal transportation account--state appropriation are provided solely for the terminal projects listed:

(a) Anacortes ferry terminal - utilities work; right-of-way purchase for a holding area during construction; and completion of design and permitting on the terminal building, pick-up and drop-off sites, and pedestrian and bicycle facilities;

(b) Bainbridge Island ferry terminal - environmental planning;

(c) Bremerton ferry terminal - overhead loading control system and moving the terminal agent's office;

(d) Clinton ferry terminal - septic system replacement;

(e) Edmonds ferry terminal - right-of-way acquisition costs and federal match requirements;

(f) Friday Harbor ferry terminal - parking resurfacing;

(g) Keystone and Port Townsend ferry terminals - route environmental planning;

(h) Kingston ferry terminal - transfer span retrofit and overhead vehicle holding control system modifications;

(i) Mukilteo ferry terminal - right-of-way acquisition, archeological studies, and environmental planning;

(j) Port Townsend ferry terminal - wingwall replacement;

(k) Seattle ferry terminal - environmental planning, coordination with local jurisdictions, and coordination with highway projects; and

(l) Vashon Island and Seattle ferry terminals - modify the passenger-only facilities.

(3) $15,500,000 of the Puget Sound ferries operating account--state appropriation is provided solely for dolphin replacement projects at the Orcas Island and Vashon Island ferry terminals. The department shall submit a predesign study to the legislature and must receive legislative approval before beginning design or construction of these projects.

(4) $76,525,000 of the transportation 2003 account (nickel account)--state appropriation and $50,985,000 of the Puget Sound capital construction account--state appropriation are provided solely for the procurement of four 144-vehicle auto-passenger ferry vessels.

(5) $18,716,000 of the Puget Sound capital construction account--state appropriation is provided solely for the Eagle Harbor maintenance facility preservation project. These funds may not be used for relocating any warehouses not currently on the Eagle Harbor site.

(6) The department shall research an asset management system to improve Washington state ferries' management of capital assets and the department's ability to estimate future preservation needs. The department shall report its findings regarding a new asset management system to the governor and the transportation committees of the legislature no later than January 15, 2008.

(7) The department shall sell the M.V. Chinook and M.V. Snohomish passenger-only fast ferries as soon as practicable and deposit the proceeds of the sales into the passenger ferry account created in RCW 47.60.645. Once the department ceases to provide passenger-only ferry service, the department shall sell the M.V. Kalama and M.V. Skagit passenger-only ferries and deposit the proceeds of the sales into the passenger ferry account created in RCW 47.60.645.

(8) The department shall, on a quarterly basis beginning July 1, 2007, provide to the office of financial management and the legislature reports providing the status on each project listed in this section and in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2007-09 fiscal biennium. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS).

NEW SECTION. **Sec. 309. FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--CAPITAL**

Essential Rail Assistance Account--State Appropriation
. . . . . $500,000
Freight Congestion Relief Account--State
Appropriation $25,000,000
Transportation Infrastructure Account--State
Appropriation $2,500,000
Multimodal Transportation Account--State
Appropriation $154,637,000
Multimodal Transportation Account--Federal
Appropriation $30,450,000
Multimodal Transportation Account--Private/Local
Appropriation $7,894,000
TOTAL APPROPRIATION . . . $220,981,000

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

(1)(a) Except as provided in subsection (8) of this section, the entire appropriations in this section are provided solely for the projects and activities as listed by fund, project, and amount in LEAP Transportation Document 2007-1, Rail Capital Program (Y) as developed April 20, 2007. However, limited transfers of specific line-item project appropriations may occur between projects for those amounts listed subject to the conditions and limitations in section 603 of this act.

(b) Within the amounts provided in this section, $2,500,000 of the transportation infrastructure account--state appropriation is for low-interest loans for rail capital projects through the freight rail investment bank program. The department shall issue a call for projects based upon the legislative priorities specified in subsection (7)(a) of this section. Application must

be received by the department by November 1, 2007. By December 1, 2007, the department shall submit a prioritized list of recommended projects to the office of financial management and the transportation committees of the legislature.

(c) Within the amounts provided in this section, $3,335,000 of the multimodal transportation account--state appropriation is for statewide - emergent freight rail assistance projects. However, the department shall perform a cost/benefit analysis of the projects according to the legislative priorities specified in subsection (7)(a) of this section, and shall give priority to the following projects: Rail - Tacoma rail yard switching upgrades ($500,000); Rail - Port of Ephrata spur rehabilitation ($127,000); Rail - Lewis and Clark rail improvements ($1,100,000); Rail - Port of Grays Harbor rail access improvements ($543,000); Rail - Port of Longview rail loop construction ($291,000); and Rail - Port of Chehalis ($774,000). If the relative cost of any of the six projects identified in this subsection (1)(c) is not substantially less than the public benefits to be derived from the project, then the department shall not assign the funds to the project, and instead shall use those funds toward those projects identified by the department in the attachments to the "Washington State Department of Transportation FREIGHT RAIL ASSISTANCE FUNDING PROGRAM: 2007-2009 Prioritized Project List and Program Update" dated December 2006 for which the proportion of public benefits to be gained compared to the cost of the project is greatest.

(d) Within the amounts provided in this section, $25,000,000 of the freight congestion relief account--state appropriation is for modifications to the Stampede Pass rail tunnel to facilitate the movement of double stacked rail cars. The department shall quantify and report to the legislature by December 1, 2007, the volume of freight traffic that would likely be shipped by rail rather than trucks if the Stampede Pass rail tunnel were modified to accommodate double stacked rail cars.

(e) Within the amounts provided in this section, $200,000 of the multimodal transportation account--state appropriation is for rescoping the Kelso to Martin's Bluff - 3rd Mainline and Storage Tracks project. The rescoped project may include funds that are committed to the project by local or private funding partners. However, the rescoped project must be capable of being completed with not more than $49,470,000 in future state funding. Subject to this funding constraint, the rescoped project must maximize capacity improvements along the rail mainline.

(f) Within the amounts provided in this section, $3,600,000 of the multimodal transportation account--state appropriation is for work items on the Palouse River and Coulee City Railroad lines.

(2) The multimodal transportation account--state appropriation includes up to $137,620,000 in proceeds from the sale of bonds authorized by RCW 47.10.867.

(3) The department is directed to seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in Program Y, including, but not limited to the "Tacoma -- bypass of Pt. Defiance" project.

(4) If new federal funding for freight or passenger rail is received, the department shall consult with the transportation committees of the legislature and the office of financial management prior to spending the funds on existing or additional projects.

(5) The department shall sell any ancillary property, acquired when the state purchased the right-of-ways to the PCC rail line system, to a lessee of the ancillary property who is willing to pay fair market value for the property. The department shall deposit the proceeds from the sale of ancillary property into the transportation infrastructure account.

(6) The entire freight congestion relief account--state appropriation is contingent upon the enactment during the 2007-2009 fiscal biennium of a bill, resulting from the study established in Substitute Senate Bill No. 5207, that makes available funding to support project expenditures funded from the freight congestion relief account created in Substitute Senate Bill No. 5207. If such a funding bill is not enacted by June 30, 2009, the entire freight congestion relief account--state appropriation shall lapse.

(7)(a) The department shall develop and implement the benefit/impact evaluation methodology recommended in the statewide rail capacity and needs study finalized in December 2006. The benefit/impact evaluation methodology shall be developed using the following priorities, in order of relative importance:

(i) Economic, safety, or environmental advantages of freight movement by rail compared to alternative modes;

(ii) Self-sustaining economic development that creates family-wage jobs;

(iii) Preservation of transportation corridors that would otherwise be lost;

(iv) Increased access to efficient and cost-effective transport to market for Washington's agricultural and industrial products;

(v) Better integration and cooperation within the regional, national, and international systems of freight distribution; and

(vi) Mitigation of impacts of increased rail traffic on communities.

(b) The department shall convene a work group to collaborate on the development of the benefit/impact analysis method to be used in the evaluation. The work group must include, at a minimum, the freight mobility strategic investment board, the department of agriculture, and representatives from the various users and modes of the state's rail system.

(c) The department shall use the benefit/impact analysis and priorities in (a) of this subsection when submitting requests for state funding for rail projects. The department shall develop a standardized format for submitting requests for state funding for rail projects that includes an explanation of the analysis undertaken, and the conclusions derived from the analysis.

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

(8) $5,000,000 of the multimodal transportation account--state appropriation is reappropriated and provided solely for the costs of acquisition of the PCC railroad associated with the memorandum of understanding (MOU), which was executed between Washington state and Watco. Total costs associated with the MOU shall not exceed $10,937,000.

NEW SECTION. **Sec. 310. FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--CAPITAL**

Highway Infrastructure Account--State Appropriation $207,000
Highway Infrastructure Account--Federal Appropriation $1,602,000
Freight Mobility Investment Account--State Appropriation $12,500,000
Freight Congestion Relief Account--State Appropriation $46,720,000
Transportation Partnership Account--State Appropriation $2,906,000
Motor Vehicle Account--State Appropriation $9,854,000
Motor Vehicle Account--Federal Appropriation . . $60,150,000
Freight Mobility Multimodal Account--State Appropriation $12,100,000
Multimodal Transportation Account--Federal Appropriation $3,500,000

Multimodal Transportation Account--State
Appropriation $33,158,000
Transportation 2003 Account (Nickel Account)--State
Appropriation $2,706,000
Passenger Ferry Account--State Appropriation $8,500,000
TOTAL APPROPRIATION . . . $193,903,000

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

(1) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists incorporated in this section. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system (TEIS).

(2) $8,500,000 of the passenger ferry account--state appropriation is provided solely for near and long-term costs of capital improvements in a business plan approved by the governor for passenger ferry service.

(3) The department shall seek the use of unprogrammed federal rail crossing funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(4) The department shall apply for surface transportation program (STP) enhancement funds to be expended in lieu of or in addition to state funds for eligible costs of projects in local programs, program Z capital.

(5) Federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the office of financial management and the transportation committees of the legislature by December 1, 2007, and December 1, 2008.

(6) The city of Winthrop may utilize a design-build process for the Winthrop bike path project. Of the amount appropriated in this section for this project, $500,000 of the multimodal transportation account--state appropriation is contingent upon the state receiving from the city of Winthrop $500,000 in federal funds awarded to the city of Winthrop by its local planning organization.

(7) $7,000,000 of the multimodal transportation account--state appropriation, $7,000,000 of the motor vehicle account--federal appropriation, and $4,000,000 of the motor vehicle account--federal appropriation are provided solely for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in the LEAP Transportation Document 2007-A, pedestrian and bicycle safety program projects and safe routes to schools program projects as developed April 20, 2007. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

(8) Up to a maximum of $5,000,000 of the multimodal transportation account--state appropriation and up to a maximum of $2,000,000 of the motor vehicle account--federal appropriation are reappropriated for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified in the LEAP transportation document 2006-B, pedestrian and bicycle safety program projects and safe routes to schools program projects as developed March 8, 2006. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award.

(9) The entire freight congestion relief account--state appropriation is contingent upon the enactment during the 2007-2009 fiscal biennium of a bill, resulting from the study established in Substitute Senate Bill No. 5207, that makes available funding to support project expenditures funded from the freight congestion relief account created in Substitute Senate Bill No. 5207. If such a funding bill is not enacted by June 30, 2009, the entire freight congestion relief account--state appropriation shall lapse.

(10) $3,500,000 of the multimodal transportation account--federal appropriation is provided solely for the Museum of Flight pedestrian bridge safety project.

(11) $250,000 of the multimodal transportation account--state appropriation is provided solely for the icicle rail station in Leavenworth.

(12) $1,500,000 of the motor vehicle account--state appropriation is provided solely for the Union Gap city road project.

(13) $350,000 of the motor vehicle account--state appropriation is provided solely for the Saltwater state park bridge project.

(14) $1,000,000 of the motor vehicle account--state appropriation is provided solely for the coal creek parkway project.

(15) $250,000 of the multimodal transportation account--state appropriation is provided solely for a streetcar feasibility study in downtown Spokane.

(16) $500,000 of the motor vehicle account--state appropriation is provided solely for the marine view drive bridge project in Des Moines.

TRANSFERS AND DISTRIBUTIONS

NEW SECTION. **Sec. 401. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE**

Highway Bond Retirement Account Appropriation $570,030,000
Ferry Bond Retirement Account Appropriation . . . $38,059,000
Transportation Improvement Board Bond Retirement
Account--State Appropriation $27,749,000
Nondebt-Limit Reimbursable Account Appropriation
. . . . . $19,359,000
Transportation Partnership Account--State
Appropriation $6,694,000
Motor Vehicle Account--State Appropriation $986,000
Transportation Improvement Account--State Appropriation
. . . . . $68,000
Multimodal Transportation Account--State
Appropriation $1,032,000
Transportation 2003 Account (Nickel Account)--State
Appropriation $6,560,000

Urban Arterial Trust Account--State Appropriation . . $473,000
Special Category C Account Appropriation $160,000
TOTAL APPROPRIATION . . . $671,170,000

NEW SECTION. **Sec. 402. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES**

Transportation Partnership Account--State Appropriation $2,254,000
Motor Vehicle Account--State Appropriation $329,000
Transportation Improvement Account--State Appropriation $5,000
Multimodal Transportation Account--State Appropriation $130,000
Transportation 2003 Account (Nickel Account)--State Appropriation $2,187,000
Urban Arterial Trust Account--State Appropriation . . . $38,000
Special Category C Account--State Appropriation $53,000
TOTAL APPROPRIATION $4,996,000

NEW SECTION. **Sec. 403. FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR MVFT BONDS AND TRANSFERS**

(1) Motor Vehicle Account--State Reappropriation: For transfer to the Tacoma Narrows Toll Bridge Account $131,016,000

The department of transportation is authorized to sell up to $131,016,000 in bonds authorized by RCW 47.10.843 for the Tacoma Narrows bridge project. Proceeds from the sale of the bonds shall be deposited into the motor vehicle account. The department of transportation shall inform the treasurer of the amount to be deposited.

(2) Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Capital Construction Account $131,500,000

The department of transportation is authorized to sell up to $131,500,000 in bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead-time materials acquisition for the Washington state ferries.

NEW SECTION. **Sec. 404. FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION**

Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities and counties $526,320,000

NEW SECTION. **Sec. 405. FOR THE STATE TREASURER--TRANSFERS**

Motor Vehicle Account--State Appropriation: For motor vehicle fuel tax refunds and statutory transfers $937,181,000

NEW SECTION. **Sec. 406. FOR THE DEPARTMENT OF LICENSING--TRANSFERS**

Motor Vehicle Account--State Appropriation: For motor vehicle fuel tax refunds and transfers $346,657,000

NEW SECTION. **Sec. 407. FOR THE STATE TREASURER--ADMINISTRATIVE TRANSFERS**

(1) Recreational Vehicle Account--State Appropriation: For transfer to the Motor Vehicle Account--State $3,005,000

(2) License Plate Technology Account--State Appropriation: For the Multimodal Transportation Account--State $4,500,000

(3) Motor Vehicle Account--State Appropriation: For transfer to the High-Occupancy Toll Lanes Operations--State Account $3,000,000

(4) Motor Vehicle Account--State Appropriation: For transfer to the Puget Sound Capital Construction Account--State $20,000,000

(5) Multimodal Transportation Account--State Appropriation: For transfer to the Puget Sound Ferry Operations Account--State $39,000,000

(6) Advanced Right-of-Way Revolving Account--State Appropriation: For transfer to the Motor Vehicle Account--State $30,000,000

(7) Waste Tire Removal Account--State Appropriation: For transfer to the Motor Vehicle Account--State . . $5,600,000

(8) Motor Vehicle Account--State Appropriation: For transfer to the Transportation Partnership Account--State $25,000,000

(9) Multimodal Transportation Account--State Appropriation: For transfer to the General Fund--State $3,500,000

(10) Multimodal Transportation Account--State Appropriation: For transfer to the Transportation Infrastructure Account--State $7,000,000

(11) Highway Safety Account--State Appropriation: For transfer to the Multimodal Transportation Account--State $9,500,000

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

(a) The amount transferred in subsection (3) of this section may be spent only on "highway purposes" as that term is construed in Article II, section 40 of the Washington state Constitution.

(b) The amount transferred in subsection (10) of this section is contingent on the enactment of Engrossed Substitute Senate Bill No. 5799. If Engrossed Substitute Senate Bill No. 5799 is not enacted by June 30, 2007, the amount transferred shall lapse.

NEW SECTION. **Sec. 408. STATUTORY APPROPRIATIONS.** In addition to the amounts appropriated in this act for revenue for distribution, state contributions to the law enforcement officers' and firefighters' retirement system, and bond retirement and interest including ongoing bond registration and transfer charges, transfers, interest on registered warrants, and certificates of indebtedness, there is also appropriated such further amounts as may be required or available for these purposes under any statutory formula or under any proper bond covenant made under law.

NEW SECTION. **Sec. 409.** The department of transportation is authorized to undertake federal advance construction projects under the provisions of 23 U.S.C. Sec. 115 in order to maintain progress in meeting approved highway construction and preservation objectives. The legislature recognizes that the use of state funds may be required to temporarily fund expenditures of the federal appropriations for the highway construction and preservation programs for federal advance construction projects prior to conversion to federal funding.

COMPENSATION

NEW SECTION. **Sec. 501. COMPENSATION--NONREPRESENTED EMPLOYEES--INSURANCE BENEFITS.** The appropriations for state agencies, are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed $707 per eligible employee for fiscal year 2008. For fiscal year 2009 the monthly employer funding rate shall not exceed $732 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of

rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2008, through December 31, 2008, the subsidy shall be $165.31. Starting January 1, 2009, the subsidy shall be $184.26 per month.

NEW SECTION. **Sec. 502. COMPENSATION--REPRESENTED EMPLOYEES OUTSIDE SUPER COALITION--INSURANCE BENEFITS.** The appropriations for state agencies, are subject to the following conditions and limitations:

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, for represented employees outside the super coalition under chapter 41.80 RCW, shall not exceed $707 per eligible employee for fiscal year 2008. For fiscal year 2009 the monthly employer funding rate shall not exceed $732 per eligible employee.

(b) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(c) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for medicare, pursuant to RCW 41.05.085. From January 1, 2008, through December 31, 2008, the subsidy shall be $165.31. Starting January 1, 2009, the subsidy shall be $184.26 per month.

NEW SECTION. **Sec. 503. COMPENSATION--REPRESENTED EMPLOYEES--SUPER COALITION.** Collective bargaining agreements negotiated as part of the super coalition under chapter 41.80 RCW include employer contributions to health insurance premiums at 88% of the cost. Funding rates at this level are currently $707 per month for fiscal year 2008 and $732 per month for fiscal year 2009. The agreements also include a one-time payment of $756 for each employee who is eligible for insurance for the month of June, 2007, and is covered by a 2007-2009 collective bargaining agreement pursuant to chapter 41.80 RCW, as well as continuation of the salary increases that were negotiated for the twelve-month period beginning July 1, 2006, and scheduled to terminate June 30, 2007.

NEW SECTION. **Sec. 504. COMPENSATION--PENSION CONTRIBUTIONS.** The appropriations for state agencies, including institutions of higher education are subject to the following conditions and limitations: Appropriations are provided to fund employer contributions to state pension funds at the rates adopted by the pension funding council.

NEW SECTION. **Sec. 505. COMPENSATION--REVISE PENSION GAIN SHARING.** The appropriations for (schools) state agencies, including institutions of higher education are subject to the following conditions and limitations: Appropriations are adjusted to reflect changes to pension gain sharing as provided in House Bill No. 2391.

NEW SECTION. **Sec. 506. NONREPRESENTED EMPLOYEE COMPENSATION.** The appropriations for nonrepresented employee compensation adjustments are provided solely for:

(1) Across the Board Adjustments.

(a) Appropriations are provided for a 3.2% salary increase effective September 1, 2007, for all classified employees, except those represented by a collective bargaining unit under chapter 41.80 RCW, and except the certificated employees of the state schools for the deaf and blind and employees of community and technical colleges covered by the provisions of Initiative Measure No. 732. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the director of personnel.

The appropriations are also sufficient to fund a 3.2% salary increase effective September 1, 2007, and for executive, legislative, and judicial branch employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials.

(b) Appropriations are provided for a 2.0% salary increase effective September 1, 2008, for all classified employees, except those represented by a collective bargaining unit under chapter 41.80 RCW, and except for the certificated employees of the state schools of the deaf and blind and employees of community and technical colleges covered by the provisions of Initiative Measure No. 732. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the director of personnel. The appropriations are also sufficient to fund a 2.0% salary increase effective September 1, 2008, for executive, legislative, and judicial branch employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials.

(2) Salary Survey.

For state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, funding is provided for implementation of the department of personnel's 2006 salary survey, for job classes more than 25% below market rates and affected classes.

(3) Classification Consolidation.

For state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, funding is provided for implementation of the department of personnel's phase 4 job class consolidation and revisions under the personnel system reform act of 2002.

(4) Agency Request Consolidation.

For state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, funding is provided for implementation of the department of personnel's agency request job class consolidation and reclassification plan.

(5) Additional Pay Step.

For state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, funding is provided for a new pay step L for those who have been in step K for at least one year.

(6) Retain Fiscal Year 2007 Pay Increase.

For all classified state employees, except those represented by a bargaining unit under chapters 41.80, 41.56, and 47.64 RCW, and except for the certificated employees of the state schools of the deaf and blind and employees of community and technical colleges covered by the provisions of Initiative Measure No. 732, funding is provided for continuation of the 1.6% salary increase that was provided during fiscal year 2007. Also included are employees in the Washington management service, and exempt employees under the jurisdiction of the director of personnel. The appropriations are also sufficient to continue a 1.6% salary increase for executive, legislative, and

judicial branch employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials.

NEW SECTION. **Sec. 507. COLLECTIVE BARGAINING AGREEMENTS.** Provisions of the collective bargaining agreements contained in sections 508 through 519 of this act are described in general terms. Only major economic terms are included in the descriptions. These descriptions do not contain the complete contents of the agreements. The collective bargaining agreements contained in sections 508 through 519 may also be funded by expenditures from nonappropriated accounts. If positions are funded with lidded grants or dedicated fund sources with insufficient revenue, additional funding from other sources is not provided.

NEW SECTION. **Sec. 508. COLLECTIVE BARGAINING AGREEMENT--IBU.** Appropriations in this act contain funding for the collective bargaining agreement reached between the governor and the inlandboatmen's union of the pacific under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and increases ranging from 1.5% to 4% to address specific classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. **Sec. 509. COLLECTIVE BARGAINING AGREEMENT--MEBA-LICENSED.** Appropriations in this act reflect the collective bargaining agreement reached between the governor and the marine engineers' beneficial association under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and increases ranging from 1% to 6% to address specific classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. **Sec. 510. COLLECTIVE BARGAINING AGREEMENT--MEBA-UNLICENSED.** Appropriations in this act reflect the collective bargaining agreement reached between the governor and the marine engineers' beneficial association under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, and a 2% salary increase effective July 1, 2008.

NEW SECTION. **Sec. 511. COLLECTIVE BARGAINING AGREEMENT--MM&P.** Appropriations in this act reflect the collective bargaining agreement reached between the governor and the international organization of master, mates & pilots, local 6, under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and increases ranging from 2.5% to 7.5% to address specific classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. **Sec. 512. COLLECTIVE BARGAINING AGREEMENT--MM&P-WATCH SUPERVISORS.** Appropriations in this act reflect the collective bargaining agreement reached between the governor and the international organization of master, mates & pilots, watch supervisors, local 6, under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and a 3% increase to address this specific classification which is below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. **Sec. 513. COLLECTIVE BARGAINING AGREEMENT--METAL TRADES COUNCIL.** Appropriations in this act reflect the collective bargaining agreement reached between the governor and the Puget Sound metal trades council under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and a $0.95/hour salary adjustment to all classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. **Sec. 514. COLLECTIVE BARGAINING AGREEMENT--FASPAA.** Appropriations in this act reflect the collective bargaining agreement reached between the governor and the ferry agents, supervisors, & project administrators association under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and a 10% increase to address specific classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. **Sec. 515. COLLECTIVE BARGAINING AGREEMENT--OPEIU.** Appropriations in this act reflect the collective bargaining agreement reached between the governor and the office & professional employees international union, local 8, under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and a one salary range (5%) increase to address specific classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. **Sec. 516. COLLECTIVE BARGAINING AGREEMENT--SEIU.** Appropriations in this act reflect the collective bargaining agreement reached between the governor and the service employees international union, local 6, under chapter 47.64 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, a 2% salary increase effective July 1, 2008, and a 5% increase to address specific classifications which are below market rates as established by the marine employees commission 2006 salary survey.

NEW SECTION. **Sec. 517. COLLECTIVE BARGAINING AGREEMENT--WSP TROOPERS ASSOCIATION.** Appropriations in this act reflect funding for the collective bargaining agreement reached between the governor and the Washington state patrol trooper's association under the provisions of chapter 41.56 RCW. For employees covered under this agreement, provisions include a 4.0% salary increase effective July 1, 2007, and a 4.0% salary increase effective July 1, 2008. Also effective July 1, 2007, positions

located in King (10%), Snohomish (5%), or Pierce (3%) counties will receive geographic pay.

NEW SECTION. **Sec. 518. COLLECTIVE BARGAINING AGREEMENT--WSP LIEUTENANTS ASSOCIATION.** Appropriations in this act reflect funding for the collective bargaining agreement reached between the governor and the Washington state patrol lieutenant's association under the provisions of chapter 41.56 RCW. For employees covered under this agreement, provisions include a 4.0% salary increase effective July 1, 2007, and a 4.0% salary increase effective July 1, 2008. Also effective July 1, 2007, positions located in King (10%), Snohomish (5%), or Pierce (3%) counties will receive geographic pay.

NEW SECTION. **Sec. 519. COLLECTIVE BARGAINING AGREEMENT--IFPTE.** Appropriations in this act reflect the collective bargaining agreement reached between the governor and the international federation of professional and technical engineers under the provisions of chapter 41.80 RCW. For employees covered under this agreement, provisions include a 1.6% salary increase effective July 1, 2007, which continues the increase that went into effect July 1, 2006, and is set to terminate June 30, 2007. Also included is a 3.2% salary increase effective July 1, 2007, and a 2% salary increase effective July 1, 2008. Select classifications will receive wage increases due to the implementation of the department of personnel's 2006 salary survey for classes more than 25% below market rates. These increases will be effective July 1, 2007. All employees covered under the agreement that have been at the top step of their range for a year or longer will progress to a new step L effective July 1, 2007.

IMPLEMENTING PROVISIONS

NEW SECTION. **Sec. 601.** Executive Order number 05-05, archaeological and cultural resources, was issued effective November 10, 2005. Agencies and higher education institutions that issue grants or loans for capital projects shall comply with the requirements set forth in this executive order.

NEW SECTION. **Sec. 602. INFORMATION SYSTEMS PROJECTS.** Agencies shall comply with the following requirements regarding information systems projects when specifically directed to do so by this act.

(1) Agency planning and decisions concerning information technology shall be made in the context of its information technology portfolio. "Information technology portfolio" means a strategic management approach in which the relationships between agency missions and information technology investments can be seen and understood, such that: Technology efforts are linked to agency objectives and business plans; the impact of new investments on existing infrastructure and business functions are assessed and understood before implementation; and agency activities are consistent with the development of an integrated, nonduplicative statewide infrastructure.

(2) Agencies shall use their information technology portfolios in making decisions on matters related to the following:

(a) System refurbishment, acquisitions, and development efforts;

(b) Setting goals and objectives for using information technology in meeting legislatively-mandated missions and business needs;

(c) Assessment of overall information processing performance, resources, and capabilities;

(d) Ensuring appropriate transfer of technological expertise for the operation of any new systems developed using external resources; and

(e) Progress toward enabling electronic access to public information.

(3) Each project will be planned and designed to take optimal advantage of Internet technologies and protocols. Agencies shall ensure that the project is in compliance with the architecture, infrastructure, principles, policies, and standards of digital government as maintained by the information services board.

(4) The agency shall produce a feasibility study for information technology projects at the direction of the information services board and in accordance with published department of information services policies and guidelines. At a minimum, such studies shall include a statement of: (a) The purpose or impetus for change; (b) the business value to the agency, including an examination and evaluation of benefits, advantages, and cost; (c) a comprehensive risk assessment based on the proposed project's impact on both citizens and state operations, its visibility, and the consequences of doing nothing; (d) the impact on agency and statewide information infrastructure; and (e) the impact of the proposed enhancements to an agency's information technology capabilities on meeting service delivery demands.

(5) The agency shall produce a comprehensive management plan for each project. The plan or plans shall address all factors critical to successful completion of each project. The plan(s) shall include, but is not limited to, the following elements: A description of the problem or opportunity that the information technology project is intended to address; a statement of project objectives and assumptions; a definition and schedule of phases, tasks, and activities to be accomplished; and the estimated cost of each phase. The planning for the phased approach shall be such that the business case justification for a project needs to demonstrate how the project recovers cost or adds measurable value or positive cost benefit to the agency's business functions within each development cycle.

(6) The agency shall produce quality assurance plans for information technology projects. Consistent with the direction of the information services board and the published policies and guidelines of the department of information services, the quality assurance plan shall address all factors critical to successful completion of the project and successful integration with the agency and state information technology infrastructure. At a minimum, quality assurance plans shall provide time and budget benchmarks against which project progress can be measured, a specification of quality assurance responsibilities, and a statement of reporting requirements. The quality assurance plans shall set out the functionality requirements for each phase of a project.

(7) A copy of each feasibility study, project management plan, and quality assurance plan shall be provided to the department of information services, the office of financial management, and legislative fiscal committees. The plans and studies shall demonstrate a sound business case that justifies the investment of taxpayer funds on any new project, an assessment of the impact of the proposed system on the existing information technology infrastructure, the disciplined use of preventative measures to mitigate risk, and the leveraging of private-sector expertise as needed. Authority to expend any funds for individual information systems projects is conditioned on the approval of the relevant feasibility study, project management plan, and quality assurance plan by the department of information services and the office of financial management.

(8) Quality assurance status reports shall be submitted to the department of information services, the office of financial management, and legislative fiscal committees at intervals specified in the project's quality assurance plan.

NEW SECTION. **Sec. 603. FUND TRANSFERS.** (1) The transportation 2003 projects or improvements and the 2005 transportation partnership projects or improvements are listed in LEAP Transportation Document 2007-1, which consists of a list of specific projects by fund source and amount over a sixteen year period. Current biennium funding for each project is a line item appropriation, while the outer year funding allocations represent a sixteen year balanced plan. The department is expected to use the flexibility provided in this section to assist in

the delivery and completion of all transportation partnership account and transportation 2003 (nickel) account projects on the LEAP lists referenced in this act. For the 2007-09 project appropriations, unless otherwise provided in this act, the director of financial management may authorize a transfer of appropriation authority between projects funded with transportation 2003 account (nickel account) appropriations, transportation partnership account appropriations, or multimodal transportation account appropriations, in order to manage project spending and efficiently deliver all projects in the respective program under the following conditions and limitations:

(a) Transfers may only be made within each specific fund source referenced on the respective project list;

(b) Transfers from a project may not be made as a result of the reduction of the scope of a project, nor shall a transfer be made to support increases in the scope of a project;

(c) Each transfer between projects may only occur if the director of financial management finds that any resulting change will not hinder the completion of the projects as approved by the legislature;

(d) Transfers from a project may be made if the funds appropriated to the project are in excess of the amount needed to complete the project;

(e) Transfers may not occur to projects not identified on the applicable project list; and

(f) Transfers may not be made while the legislature is in session.

(2) At the time the department submits a request to transfer funds under this section a copy of the request shall be submitted to the transportation committees of the legislature.

(3) The office of financial management shall work with legislative staff of the house of representatives and senate transportation committees to review the requested transfers.

(4) The office of financial management shall document approved transfers and/or schedule changes in the transportation executive information system (TEIS), compare changes to the legislative baseline funding and schedules identified by project identification number identified in the LEAP lists adopted in this act, and transmit revised project lists to chairs of the transportation committees of the legislature on a quarterly basis.

NEW SECTION. **Sec. 604. MEGA-PROJECT REPORTING.** Mega-projects are defined as individual or groups of related projects that cost $1,000,000,000 or more. These projects include, but are not limited to: Alaskan Way Viaduct, SR 520, SR 167, I-405, North Spokane corridor, I-5 Tacoma HOV, and the Columbia River Crossing. The office of financial management shall track mega-projects and report the financial status and schedule of these projects at least once a year to the transportation committees of the legislature. The design of mega-projects must be evaluated considering cost, capacity, safety, mobility needs, and how well the design of the facility fits within its urban environment.

NEW SECTION. **Sec. 605.** Based on the anticipated outcomes of the tolling study, to be conducted under section 206 of this act, the legislature intends that tolls be charged to offset or partially offset the costs for the following projects, and that a managed lane concept be applied in their design and implementation: State Route 520 Bridge replacement and HOV project, and widening of Interstate 405.

MISCELLANEOUS 2007-09 BIENNIUM

Sec. 701. RCW 46.68.170 and 1996 c 237 s 2 are each amended to read as follows:

There is hereby created in the motor vehicle fund the RV account. All moneys hereafter deposited in said account shall be used by the department of transportation for the construction, maintenance, and operation of recreational vehicle sanitary disposal systems at safety rest areas in accordance with the department's highway system plan as prescribed in chapter 47.06 RCW. During the 2005-2007 and 2007-2009 fiscal biennia, the legislature may transfer from the RV account to the motor vehicle fund such amounts as reflect the excess fund balance of the RV account.

Sec. 702. RCW 47.29.170 and 2006 c 370 s 604 are each amended to read as follows:

Before accepting any unsolicited project proposals, the commission must adopt rules to facilitate the acceptance, review, evaluation, and selection of unsolicited project proposals. These rules must include the following:

(1) Provisions that specify unsolicited proposals must meet predetermined criteria;

(2) Provisions governing procedures for the cessation of negotiations and consideration;

(3) Provisions outlining that unsolicited proposals are subject to a two-step process that begins with concept proposals and would only advance to the second step, which are fully detailed proposals, if the commission so directed;

(4) Provisions that require concept proposals to include at least the following information: Proposers' qualifications and experience; description of the proposed project and impact; proposed project financing; and known public benefits and opposition; and

(5) Provisions that specify the process to be followed if the commission is interested in the concept proposal, which must include provisions:

(a) Requiring that information regarding the potential project would be published for a period of not less than thirty days, during which time entities could express interest in submitting a proposal;

(b) Specifying that if letters of interest were received during the thirty days, then an additional sixty days for submission of the fully detailed proposal would be allowed; and

(c) Procedures for what will happen if there are insufficient proposals submitted or if there are no letters of interest submitted in the appropriate time frame.

The commission may adopt other rules as necessary to avoid conflicts with existing laws, statutes, or contractual obligations of the state.

The commission may not accept or consider any unsolicited proposals before ((~~June 30, 2007~~)) July 1, 2009.

NEW SECTION. **Sec. 703.** To the extent that any appropriation authorizes expenditures of state funds from the motor vehicle account, special category C account, Tacoma Narrows toll bridge account, transportation 2003 account (nickel account), transportation partnership account, transportation improvement account, Puget Sound capital construction account, multimodal transportation account, or other transportation capital project account in the state treasury for a state transportation program that is specified to be funded with proceeds from the sale of bonds authorized in chapter 47.10 RCW, the legislature declares that any such expenditures made prior to the issue date of the applicable transportation bonds for that state transportation program are intended to be reimbursed from proceeds of those transportation bonds in a maximum amount equal to the amount of such appropriation.

Sec. 704. RCW 46.16.685 and 2003 c 370 s 4 are each amended to read as follows:

The license plate technology account is created in the state treasury. All receipts collected under RCW 46.01.140(4)(e)(ii) must be deposited into this account. Expenditures from this account must support current and future license plate technology and systems integration upgrades for both the department and correctional industries. Moneys in the account may be spent only after appropriation. Additionally, the moneys in this account may be used to reimburse the motor vehicle account for any appropriation made to implement the digital license plate system. During the 2007-2009 fiscal biennium, the legislature may transfer from the license plate technology account to the multimodal transportation account such amounts as reflect the excess fund balance of the license plate technology account.

Sec. 705. RCW 47.01.390 and 2006 c 311 s 27 are each amended to read as follows:

(1) Prior to commencing construction on either project, the department of transportation must complete all of the following requirements for both the Alaskan Way viaduct and Seattle Seawall replacement project, and the state route number 520 bridge replacement and HOV project: (a) In accordance with the national environmental policy act, the department must designate the preferred alternative, prepare a substantial project mitigation plan, and complete a comprehensive cost estimate review using the department's cost estimate validation process, for each project; (b) in accordance with all applicable federal highway administration planning and project management requirements, the department must prepare a project finance plan for each project that clearly identifies secured and anticipated fund sources, cash flow timing requirements, and project staging and phasing plans if applicable; and (c) the department must report these results for each project to the joint transportation committee.

(2) The requirements of this section shall not apply to (a) utility relocation work, and related activities, on the Alaskan Way viaduct and Seattle Seawall replacement project and (b) off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.

(3) The requirements of subsection (1) of this section shall not apply during the 2007-2009 fiscal biennium.

Sec. 706. RCW 88.16.090 and 2005 c 26 s 2 are each amended to read as follows:

(1) A person may pilot any vessel subject to this chapter on waters covered by this chapter only if licensed to pilot such vessels on such waters under this chapter.

(2)(a) A person is eligible to be licensed as a pilot if the person:

(i) Is a citizen of the United States;

(ii) Is over the age of twenty-five years and under the age of seventy years;

(iii) Is a resident of the state of Washington at the time of licensure as a pilot;

(iv)(A) Holds at the time of application, as a minimum, a United States government license as master of steam or motor vessels of not more than one thousand six hundred gross register tons (three thousand international tonnage convention tons) upon oceans, near coastal waters, or inland waters; or the then most equivalent federal license as determined by the board; any such license to have been held by the applicant for a period of at least two years before application;

(B) Holds at the time of licensure as a pilot, after successful completion of the board-required training program, a first class United States endorsement without restrictions on the United States government license for the pilotage district in which the pilot applicant desires to be licensed; however, all applicants for a pilot examination scheduled to be given before July 1, 2008, must have the United States pilotage endorsement at the time of application; and

(C) The board may establish such other federal license requirements for applicants and pilots as it deems appropriate; and

(v) Successfully completes a board-specified training program.

(b) In addition to the requirements of (a) of this subsection, a pilot applicant must meet such other qualifications as may be required by the board.

(c) A person applying for a license under this section shall not have been convicted of an offense involving drugs or the personal consumption of alcohol in the twelve months prior to the date of application. This restriction does not apply to license renewals under this section.

(3) The board may establish such other training license and pilot license requirements as it deems appropriate.

(4) Pilot applicants shall be evaluated and ranked in a manner specified by the board based on their experience, other qualifications as may be set by the board, performance on a written examination or examinations established by the board, and performance in such other evaluation exercises as may be required by the board, for entry into a board-specified training program.

When the board determines that the demand for pilots requires entry of an applicant into the training program it shall issue a training license to that applicant, but under no circumstances may an applicant be issued a training license more than four years after taking the written entry examination. The training license authorizes the trainee to do such actions as are specified in the training program.

After the completion of the training program the board shall evaluate the trainee's performance and knowledge. The board, as it deems appropriate, may then issue a pilot license, delay the issuance of the pilot license, deny the issuance of the pilot license, or require further training and evaluation.

(5) The board may appoint a special independent committee or may contract with a firm knowledgeable and experienced in the development of professional tests and evaluations for development and grading of the examinations and other evaluation methods. Active licensed state pilots may be consulted for the general development of any examinations and evaluation exercises but shall have no knowledge of the specific questions. The pilot members of the board may participate in the grading of examinations. If the board does appoint a special examination or evaluation development committee it is authorized to pay the members of the committee the same compensation and travel expenses as received by members of the board. Any person who willfully gives advance knowledge of information contained on a pilot examination or other evaluation exercise is guilty of a gross misdemeanor.

(6) Pilots are licensed under this section for a term of five years from and after the date of the issuance of their respective state licenses. Licenses must thereafter be renewed as a matter of course, unless the board withholds the license for good cause. Each pilot shall pay to the state treasurer an annual license fee ((~~of three thousand dollars~~)) in an amount set by the board by rule. The fees established under this subsection may be increased in excess of the fiscal growth factor as provided in RCW 43.135.055 through the fiscal year ending June 30, 2009. The fees must be deposited in the state treasury to the credit of the pilotage account. The board may assess partially active or inactive pilots a reduced fee.

(7) All pilots and applicants are subject to an annual physical examination by a physician chosen by the board. The physician shall examine the applicant's heart, blood pressure, circulatory system, lungs and respiratory system, eyesight, hearing, and such other items as may be prescribed by the board. After consultation with a physician and the United States coast guard, the board shall establish minimum health standards to ensure that pilots licensed by the state are able to perform their duties. Within ninety days of the date of each annual physical examination, and after review of the physician's report, the board shall make a determination of whether the pilot or applicant is fully able to carry out the duties of a pilot under this chapter. The board may in its discretion check with the appropriate authority for any convictions of offenses involving drugs or the personal consumption of alcohol in the prior twelve months.

(8) The board may require vessel simulator training for a pilot applicant and shall require vessel simulator training for a licensed pilot subject to RCW 88.16.105. The board shall also require vessel simulator training in the first year of active duty for a new pilot and at least once every five years for all active pilots.

(9) The board shall prescribe, pursuant to chapter 34.05 RCW, such reporting requirements and review procedures as may be necessary to assure the accuracy and validity of license and service claims. Willful misrepresentation of such required

information by a pilot applicant shall result in disqualification of the pilot applicant.

Sec. 707. RCW 47.12.244 and 1991 c 291 s 2 are each amended to read as follows:

There is created the "advance right of way revolving fund" in the custody of the treasurer, into which the department is authorized to deposit directly and expend without appropriation:

(1) An initial deposit of ten million dollars from the motor vehicle fund included in the department of transportation's 1991-93 budget;

(2) All moneys received by the department as rental income from real properties that are not subject to federal aid reimbursement, except moneys received from rental of capital facilities properties as defined in chapter 47.13 RCW; and

(3) Any federal moneys available for acquisition of right of way for future construction under the provisions of section 108 of Title 23, United States Code.

(4) During the 2007-09 fiscal biennium, the legislature may transfer from the advance right of way revolving fund to the motor vehicle account amounts as reflect the excess fund balance of the advance right of way revolving fund.

Sec. 708. RCW 70.95.521 and 2005 c 354 s 3 are each amended to read as follows:

The waste tire removal account is created in the state treasury. All receipts from tire fees imposed under RCW 70.95.510 must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used for the cleanup of unauthorized waste tire piles and measures that prevent future accumulation of unauthorized waste tire piles. During the 2007-2009 fiscal biennium, the legislature may transfer from the waste tire removal account to the motor vehicle fund such amounts as reflect the excess fund balance of the waste tire removal account.

NEW SECTION. **Sec. 709.** The department of transportation, in conjunction with the office of financial management, must implement the governmental accounting standards board's (GASB) statement number 34 including a complete inventory and valuation of the state's highway system. The financial reporting value of the state's highway system must be adjusted for any new additions to the system. The biennial reporting of the condition of the system must be related to the funding levels of maintaining the system. The department must maintain a current inventory of the state's highway system and estimate the actual cost to maintain and preserve the assets. In addition to the GASB statement 34, the department of transportation with the office of financial management's assistance must establish an asset replacement value for the entire state's highway system. During 2007, the cochairs of the joint transportation committee shall select legislators to work with the office of financial management and the department of transportation. The purpose of this effort is to enhance decision making that will result in strategic long-term investment decisions in transportation capital project management and asset preservation. The office of financial management will coordinate and manage the inventory and the valuation. The office of financial management must submit a final report to the legislative transportation committees on or before December 1, 2008.

Sec. 710. RCW 47.06A.030 and 1999 c 216 s 2 are each amended to read as follows:

(1) The freight mobility strategic investment board is created. The board shall convene by July 1, 1998.

(2) The board is composed of twelve members. The following members are appointed by the governor for terms of four years, except that five members initially are appointed for terms of two years: (a) Two members, one of whom is from a city located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the association of Washington cities or its successor; (b) two members, one of whom is from a county having a strategic freight corridor within its boundaries, appointed from a list of at least four persons nominated by the Washington state association of counties or its successor; (c) two members, one of whom is from a port district located within or along a strategic freight corridor, appointed from a list of at least four persons nominated by the Washington public ports association or its successor; (d) one member representing the office of financial management; (e) one member appointed as a representative of the trucking industry; (f) one member appointed as a representative of the railroads; (g) the secretary of the department of transportation; (h) one member representing the steamship industry; and (i) one member of the general public. For the 2007-09 biennium, the board shall also include a representative of organized labor. In appointing the general public member, the governor shall endeavor to appoint a member with special expertise in relevant fields such as public finance, freight transportation, or public works construction. The governor shall appoint the general public member as chair of the board. In making appointments to the board, the governor shall ensure that each geographic region of the state is represented.

(3) Members of the board shall be reimbursed for reasonable and customary travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) If a vacancy on the board occurs by death, resignation, or otherwise, the governor shall fill the vacant position for the unexpired term. Each vacancy in a position appointed from lists provided by the associations and departments under subsection (2) of this section must be filled from a list of at least four persons nominated by the relevant association or associations.

(5) The appointments made in subsection (2) of this section are not subject to confirmation.

Sec. 711. RCW 46.16.725 and 2005 c 319 s 119 and 2005 c 210 s 7 are each reenacted and amended to read as follows:

(1) The creation of the board does not in any way preclude the authority of the legislature to independently propose and enact special license plate legislation.

(2) The board must review and either approve or reject special license plate applications submitted by sponsoring organizations.

(3) Duties of the board include but are not limited to the following:

(a) Review and approve the annual financial reports submitted by sponsoring organizations with active special license plate series and present those annual financial reports to the senate and house transportation committees;

(b) Report annually to the senate and house transportation committees on the special license plate applications that were considered by the board;

(c) Issue approval and rejection notification letters to sponsoring organizations, the department, the chairs of the senate and house of representatives transportation committees, and the legislative sponsors identified in each application. The letters must be issued within seven days of making a determination on the status of an application;

(d) Review annually the number of plates sold for each special license plate series created after January 1, 2003. The board may submit a recommendation to discontinue a special plate series to the chairs of the senate and house of representatives transportation committees;

(e) Provide policy guidance and directions to the department concerning the adoption of rules necessary to limit the number of special license plates that an organization or a governmental entity may apply for.

(4) In order to assess the effects and impact of the proliferation of special license plates, the legislature declares a temporary moratorium on the issuance of any additional plates until ((~~June 1, 2007~~)) July 1, 2009. During this period of time, the special license plate review board created in RCW 46.16.705 and the department of licensing are prohibited from accepting, reviewing, processing, or approving any applications.

Additionally, no special license plate may be enacted by the legislature during the moratorium, unless the proposed license plate has been approved by the board before February 15, 2005.

NEW SECTION. **Sec. 712.** It is the intent of the legislature to establish policy goals for the planning, operation, performance of, and investment in, the state's transportation system. The policy goals established under this section are deemed consistent with the benchmark categories adopted by the state's blue ribbon commission on transportation on November 30, 2000. Public investments in transportation should support achievement of these policy goals:

(a) Preservation: To maintain, preserve, and extend the life and utility of prior investments in transportation systems and services;

(b) Safety: To provide for and improve the safety and security of transportation customers and the transportation system;

(c) Mobility: To improve the predictable movement of goods and people throughout Washington state;

(d) Environment: To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment; and

(e) Stewardship: To continuously improve the quality, effectiveness, and efficiency of the transportation system.

NEW SECTION. **Sec. 713. FOR THE DEPARTMENT OF TRANSPORTATION**

Transportation Infrastructure Account--State Appropriation $7,000,000

The appropriation in this section is subject to the following conditions and limitations: The Palouse River and Coulee City (PCC) rail line system is made up of the CW, P&L and PV Hooper rail lines. The amount provided in this section is provided solely for grants to any intergovernmental entity or local rail district to which operating rights for the PCC rail line system are assigned, provided that the funds are used only to refurbish the rail lines. It is the intent of the legislature to make the funds appropriated in this section available as grants to an intergovernmental entity or local rail district for the purposes stated in this section at least until June 30, 2012, and to reappropriate as necessary any portion of the appropriation in this section that is not used by June 30, 2009.

Sec. 714. RCW 46.68.060 and 1969 c 99 s 11 are each amended to read as follows:

There is hereby created in the state treasury a fund to be known as the highway safety fund to the credit of which shall be deposited all moneys directed by law to be deposited therein. This fund shall be used for carrying out the provisions of law relating to driver licensing, driver improvement, financial responsibility, cost of furnishing abstracts of driving records and maintaining such case records, and to carry out the purposes set forth in RCW 43.59.010. During the 2005-2007 and 2007-2009 fiscal biennia, the legislature may transfer from the highway safety fund to the motor vehicle fund and the multimodal transportation account such amounts as reflect the excess fund balance of the highway safety fund.

2005-07 BIENNIUM
TRANSPORTATION AGENCIES--OPERATING

Sec. 801. 2006 c 53 s 2 (uncodified) is amended to read as follows: **FOR THE BOARD OF PILOTAGE COMMISSIONERS**

Pilotage Account--State Appropriation . . . . . ((~~$1,017,000~~)) $1,317,000

((~~The appropriation in this section is subject to the following conditions and limitations: $500,000 of the appropriation is provided solely for stipends to trainees in the training program as set forth in rules adopted by the board.~~))

NEW SECTION. **Sec. 802.** A new section is added to 2005 c 313 (uncodified) to read as follows: **FOR THE DEPARTMENT OF LICENSING.** The appropriations to the department of licensing in chapter 370, Laws of 2006 shall be expended for the programs and in the amounts specified herein. However, after May 1, 2007, unless specifically prohibited, the department may transfer motor vehicle account--state appropriations for the 2005-2007 fiscal biennium, highway safety account--state appropriations for the 2005-2007 fiscal biennium, and department of licensing services account--state appropriations for the 2005-2007 fiscal biennium between programs after approval by the director of financial management. However, the department shall not transfer state moneys that are provided solely for a specified purpose. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any allotment modifications or transfers under this section.

NEW SECTION. **Sec. 803.** A new section is added to 2005 c 313 (uncodified) to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION.** (1) The appropriations to the department of transportation in this act shall be expended for the programs and in the amounts specified in this act. However, in order to meet extraordinary ferry operating labor expenses, after May 1, 2007, unless specifically prohibited by this act, the department may transfer state appropriations among operating programs after approval by the director of financial management. However, the department shall not transfer state moneys that are provided solely for a specified purpose.

(2) The department shall not transfer funds, and the director of financial management shall not approve the transfer, unless the transfer is consistent with the objective of conserving, to the maximum extent possible, the expenditure of state funds and not federal funds. The director of financial management shall notify the appropriate transportation committees of the legislature in writing seven days prior to approving any allotment modifications or transfers under this subsection. The written notification shall include a narrative explanation and justification of the changes, along with expenditures and allotments by program and appropriation, both before and after any allotment modifications or transfers.

Sec. 804. 2006 c 370 s 205 (uncodified) is amended to read as follows: **FOR THE JOINT TRANSPORTATION COMMITTEE**

Motor Vehicle Account--State Appropriation $1,679,000

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

(1)(a) $200,000 of the total appropriation is provided solely for the joint transportation committee to conduct a finance study of the Washington state ferry system. The purpose of the study is to facilitate policy discussions and decisions by members of the legislature regarding the Washington state ferry system. The legislature recognizes there is a need within the Washington state ferry system for predictable cash flows, transparency, assessment of organizational structure, verification that the Washington state ferry system is operating at maximum efficiency, and better labor relations. The committee shall report the study to the house of representatives and senate transportation committees by January 1, 2007.

(b) The study must include, at a minimum, a review and evaluation of the ferry system's financial plan, including current assumptions and past studies, in the following areas:

(i) Operating program, including ridership, revenue, and cost forecasts and the accuracy of those forecasts; and

(ii) Capital program, including project scoping, prioritization and cost estimating, project changes including legislative input regarding significant project changes, and performance measures.

(c) In addition to committee members, or their designees, the governor shall appoint a representative for this study. The committee may retain consulting services to assist the committee in conducting the study, including the evaluation of financial,

operating, and capital plans. The committee may also appoint other persons to assist with the study.

(2) The joint transportation committee shall conduct a study regarding the feasibility of a statewide uniform motor vehicle excise tax (MVET) depreciation schedule. In addition to committee members, the participants in the study must include at a minimum the following individuals: (a) A representative of a regional transit authority (Sound Transit); (b) a representative of a regional transportation planning organization; (c) the secretary of transportation, or his or her designee; (d) a representative of the attorney general's office; (e) a representative of the department of licensing; and (f) a representative of the financial community. The purpose of the study is to develop an MVET depreciation schedule that more accurately reflects vehicle value but does not hinder outstanding contractual obligations.

(3) Funds provided in this section are sufficient for the committee to administer a study of the most reliable and cost-effective means of providing passenger-only ferry service.

(a) The study shall be guided by a 18 member task force consisting of the chairs and ranking members of the house of representatives and senate transportation committees, a designee of the director of the office of financial management, a member of the transportation commission, a designee of the secretary of transportation, a representative of organized labor, and ten stakeholders to be appointed by the governor as follows: Six representatives of ferry user communities, two representatives of public transportation agencies, and two representatives of commercial ferry operators.

(b) The study shall examine issues including but not limited to the long-term viability of different service providers, cost to ferry passengers, the state subsidies required by each provider, and the availability of federal funding for the different service providers.

(c) By November 30, 2005, the task force shall make its recommendations to the house of representatives and senate transportation committees.

(4) ((~~$450,000 of the motor vehicle account--state appropriation is provided solely to administer a consultant study of the long-term viability of the state's transportation financing methods and sources.~~

~~(a) At a minimum, the study must examine the following: (i) The short and long-term viability of the motor fuel tax (both state and federal) as a major source of funding for transportation projects and programs; (ii) the desirability and effectiveness of state-distributed transportation funds for the benefit of local units of government; (iii) the potential for alternative and/or emerging sources of transportation revenues, with particular emphasis on user-based fees and charges; and (iv) trends and implications of debt financing for transportation projects. The scope of work for the study may be expanded to include analysis of other financing issues relevant to the long-term viability of the state's transportation system.~~

~~(b) The findings and recommendations must be submitted to the fiscal committees of the legislature by November 1, 2006.~~

~~(5)~~)) $75,000 of the motor vehicle account--state appropriation is provided solely for the joint transportation committee to contract for a review of existing research on programs and policies which decrease accidents by teenage drivers, including but not limited to publicly operated driver education and intermediate drivers licensing programs. The institute shall also evaluate the costs and benefits of programs and policies showing the greatest positive impact on teenage driving safety.

((~~(6)~~)) (5) The committee shall conduct an evaluation of the department of transportation surface transportation program enhancement grant program. The evaluation will include (a) information about the categories of projects submitted for consideration; (b) a review of the allocation of funds awarded across the categories of STP enhancement eligible activities; (c) a review of the criteria used to score projects; and (d) a finding by the committee whether certain categories of projects are disproportionately funded or unfunded.

Sec. 805. 2006 c 370 s 208 (uncodified) is amended to read as follows: **FOR THE WASHINGTON STATE PATROL--FIELD OPERATIONS BUREAU**

State Patrol Highway Account--State Appropriation . . . . . ((~~$201,063,000~~)) $198,984,000

State Patrol Highway Account--Federal Appropriation $10,544,000

State Patrol Highway Account--Private/Local Appropriation $169,000

TOTAL APPROPRIATION ((~~$211,776,000~~)) $209,697,000

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

(1) Washington state patrol officers engaged in off-duty uniformed employment providing traffic control services to the department of transportation or other state agencies may use state patrol vehicles for the purpose of that employment, subject to guidelines adopted by the chief of the Washington state patrol. The Washington state patrol shall be reimbursed for the use of the vehicle at the prevailing state employee rate for mileage and hours of usage, subject to guidelines developed by the chief of the Washington state patrol. The patrol shall report to the house of representatives and senate transportation committees by December 31, 2005, on the use of agency vehicles by officers engaging in the off-duty employment specified in this subsection. The report shall include an analysis that compares cost reimbursement and cost-impacts, including increased vehicle mileage, maintenance costs, and indirect impacts, associated with the private use of patrol vehicles.

(2) In addition to the user fees, the patrol shall transfer into the state patrol nonappropriated airplane revolving account under RCW 43.79.470 no more than the amount of appropriated state patrol highway account and general fund funding necessary to cover the costs for the patrol's use of the aircraft. The state patrol highway account and general fund--state funds shall be transferred proportionately in accordance with a cost allocation that differentiates between highway traffic enforcement services and general policing purposes.

(3) The patrol shall not account for or record locally provided DUI cost reimbursement payments as expenditure credits to the state patrol highway account. The patrol shall report the amount of expected locally provided DUI cost reimbursements to the transportation committees of the senate and house of representatives by December 31st of each year.

(4) The state patrol highway account--state appropriation for DUI reimbursements shall only be spent for pursuit vehicle video cameras, datamaster DUI testing equipment, tire deflator equipment, and taser guns. The Washington state patrol prior to the issuance of any taser guns will train the troopers on using the equipment. The agency will provide a report to the transportation committees of the senate and house of representatives by December 31st of each year on the occurrences where the taser guns were utilized along with any issues that have been identified.

(5) $29,000 of the state patrol highway account--state appropriation is provided solely for the implementation of House Bill No. 1469. If House Bill No. 1469 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(6) $5,580,000 of the total appropriation is provided solely for a 3.8% salary increase for commissioned officers effective July 1, 2005, in addition to any other salary increases provided for in this act.

(7) The Washington state patrol is authorized to use certificates of participation to fund the King Air aircraft replacement over a term of not more than ten years and an amount not to exceed $1,900,000.

(8)(a) $834,000 of the state patrol highway account--state appropriation is provided solely for the collective bargaining agreement reached between the governor and the Washington state patrol troopers association under chapter 438, Laws of 2005. For commissioned troopers and sergeants covered under this section, funding is provided for a 2.6% salary increase effective July 1, 2006. This increase supersedes the fiscal year 2007 increase granted under section 501, chapter 313, Laws of 2005. Provisions of the collective bargaining agreement contained in this subsection are described in general terms. Only major economic terms are included in this description. This description does not contain the complete contents of the agreement. Due to the timing challenges in negotiating the initial collective bargaining agreement under chapter 438, Laws of 2005, this agreement was not concluded by the October 1st statutory deadline. However, the legislature does not intend to fund bargaining agreements concluded after the October 1st deadline, or other salary increases not included in the governor's budget proposal, in future biennia.

(b) $62,000 of the state patrol highway account--state appropriation is provided solely for salary increases for commissioned captains and lieutenants covered under this section, if a new collective bargaining agreement is reached between the governor and the Washington state patrol lieutenants association by July 1, 2006. The amount provided in this subsection is contingent on an agreement being reached by July 1, 2006, and shall be held in reserve status until the agreement is reached. If an agreement is not reached by July 1, 2006, the amount provided in this subsection shall lapse. If an agreement is reached by July 1, 2006, the increase supersedes the fiscal year 2007 increase granted under section 501, chapter 313, Laws of 2005. Due to the timing challenges in negotiating a collective bargaining agreement funded under this subsection, the agreement will not have been concluded by the October 1st statutory deadline. However, the legislature does not intend to fund bargaining agreements concluded after the October 1st deadline, or other salary increases not included in the governor's budget proposal, in future biennia.

(9) The Washington state patrol, in consultation with the department of licensing, local law enforcement agencies, and other appropriate organizations, shall study the options for implementing an inspection program for tow truck operators that are not licensed as registered tow truck operators. This study shall also evaluate prospective sources of funding and the amount of funding necessary for the program. The Washington state patrol shall report to the transportation committees of the legislature by December 1, 2006, on the options, strategies, and recommendations for implementing an inspection program for tow truck operators that are not licensed as registered tow truck operators.

(10) $2,040,000 of the state patrol highway account--state appropriation is provided solely for eighteen additional commissioned officers in the vessel and terminal security division.

(11) The office of financial management shall conduct a review of the state patrol highway account and report its findings to the legislature by January 1, 2007.

Sec. 806. 2006 c 370 s 209 (uncodified) is amended to read as follows: **FOR THE WASHINGTON STATE PATROL--INVESTIGATIVE SERVICES BUREAU**

State Patrol Highway Account--State Appropriation . . . . . ((~~$1,358,000~~)) $1,025,000

Sec. 807. 2006 c 370 s 210 (uncodified) is amended to read as follows: **FOR THE WASHINGTON STATE PATROL--TECHNICAL SERVICES BUREAU**

State Patrol Highway Account--State Appropriation . . . . . ((~~$91,359,000~~)) $93,280,000

State Patrol Highway Account--Private/Local Appropriation $2,008,000

TOTAL APPROPRIATION . ((~~$93,367,000~~)) $95,288,000

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

(1) $247,000 of the state patrol highway account--state appropriation is provided solely for the implementation of Second Substitute House Bill No. 1188. If Second Substitute House Bill No. 1188 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

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

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

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

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

(6)(a) $28,000 of the state patrol highway account--state appropriation is provided solely for the collective bargaining agreement reached between the governor and the Washington state patrol troopers association under chapter 438, Laws of 2005. For commissioned troopers and sergeants covered under this section, funding is provided for a 2.6% salary increase effective July 1, 2006. This increase supersedes the fiscal year 2007 increase granted under section 501, chapter 313, Laws of 2005. Provisions of the collective bargaining agreement contained in this subsection are described in general terms. Only major economic terms are included in this description. This description does not contain the complete contents of the agreement. Due to the timing challenges in negotiating the initial collective bargaining agreement under chapter 438, Laws of 2005, this agreement was not concluded by the October 1st statutory deadline. However, the legislature does not intend to fund bargaining agreements concluded after the October 1st deadline, or other salary increases not included in the governor's budget proposal, in future biennia.

(b) $2,000 of the state patrol highway account--state appropriation is provided solely for salary increases for commissioned captains and lieutenants covered under this section, if a new collective bargaining agreement is reached between the governor and the Washington state patrol lieutenants association by July 1, 2006. The amount provided in this subsection is contingent on an agreement being reached by July 1, 2006, and shall be held in reserve status until the agreement is reached. If an agreement is not reached by July 1, 2006, the amount provided in this subsection shall lapse. If an agreement is reached by July 1, 2006, the increase supersedes the fiscal year 2007 increase granted under section 501, chapter 313, Laws of 2005. Due to the timing challenges in negotiating a collective bargaining agreement funded under this subsection, the agreement will not have been concluded by the October 1st statutory deadline. However, the legislature does not intend to fund bargaining agreements concluded after the October 1st deadline, or other salary increases not included in the governor's budget proposal, in future biennia.

Sec. 808. 2006 c 370 s 215 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--TOLL OPERATIONS AND MAINTENANCE--PROGRAM B**

Tacoma Narrows Toll Bridge Account--State Appropriation

. . . . . ((~~$8,294,000~~))
$5,288,000

Sec. 809. 2006 c 370 s 218 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--AVIATION--PROGRAM F**

Aeronautics Account--State Appropriation . . . . ((~~$7,137,000~~))
$6,925,000
Aeronautics Account--Federal Appropriation $2,150,000
Multimodal Transportation Account--State Appropriation
. . . . . $100,000
Multimodal Transportation Account--Federal Appropriation
. . . . . $900,000
TOTAL APPROPRIATION . ((~~$10,287,000~~))
$10,075,000

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

(1)(a) $433,000 of the aeronautics account--state appropriation is provided solely for airport pavement projects. The department's aviation division shall complete a priority airport pavement project list by January 1, 2006, to be considered by the legislature in the 2006 supplemental budget. If Substitute Senate Bill No. 5414 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(b) If Substitute Senate Bill No. 5414 is enacted by July 1, 2005, then the remaining unexpended fund balance in the aircraft search and rescue, safety, and education account shall be deposited into the state aeronautics account.

(2) The entire multimodal transportation account--state and federal appropriations are provided solely for implementing Engrossed Substitute Senate Bill No. 5121. If Engrossed Substitute Senate Bill No. 5121 is not enacted by June 30, 2005, or if federal funds are not received by March 1, 2006, for the purpose of implementing Engrossed Substitute Senate Bill No. 5121, the amount provided in this subsection shall lapse.

Sec. 810. 2006 c 370 s 221 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--HIGHWAY MAINTENANCE--PROGRAM M**

Motor Vehicle Account--State Appropriation ((~~$299,720,000~~))
$300,920,000
Motor Vehicle Account--Federal Appropriation ((~~$1,426,000~~))
$3,926,000
Motor Vehicle Account--Private/Local Appropriation
. . . . . $4,315,000
TOTAL APPROPRIATION ((~~$305,461,000~~))
$309,161,000

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

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

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

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

(4) Funding is provided for maintenance on the state system to allow for a continuation of the level of service targets included in the 2003-05 biennium. In delivering the program, the department should concentrate on the following areas:

(a) Meeting or exceeding the target for structural bridge repair on a statewide basis;

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

(c) Reducing the number of activities delivered in the "d" level of service by increasing the resources directed to those activities on a statewide and region basis; and

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

(5) The department shall develop and implement a plan to improve work zone safety on a statewide basis. As part of the strategy included in the plan, the department shall fund equipment purchases using a portion of the money from the annual OTEF equipment purchasing and replacement process. The department shall also identify and evaluate statewide equipment needs (such as work zone safety equipment) and prioritize any such needs on a statewide basis. Substitute purchasing at the statewide level, when appropriate, shall be utilized to meet those identified needs. The department must report to the transportation committees of the legislature by December 1, 2005, on the plan, and by December 1, 2006, on the status of implementing the plan.

Sec. 811. 2006 c 370 s 224 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--TRANSPORTATION PLANNING, DATA, AND RESEARCH--PROGRAM T**

Motor Vehicle Account--State Appropriation . ((~~$24,052,000~~))
$23,053,000
Motor Vehicle Account--Federal Appropriation . . $16,756,000
Multimodal Transportation Account--State Appropriation
. . . . . $2,279,000
Multimodal Transportation Account--Federal
Appropriation $2,829,000
Multimodal Transportation Account--Private/Local
Appropriation $100,000
Transportation Partnership Account--State
Appropriation $2,300,000
TOTAL APPROPRIATION . ((~~$48,316,000~~))
$47,317,000

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

(1) In order to qualify for state planning funds available to regional transportation planning organizations under this section, a regional transportation planning organization containing any county with a population in excess of one million shall provide voting membership on its executive board to any incorporated principal city of a metropolitan statistical area within the region, as designated by the United States census bureau, and to any incorporated city within the region with a population in excess of eighty thousand as of July 1, 2005. Additionally, a regional transportation planning organization described under this subsection shall conduct a review of its executive board membership criteria to ensure that the criteria appropriately reflects a true and comprehensive representation of the organization's jurisdictions of significance within the region.

(2) $175,000 of the motor vehicle account--state appropriation is provided to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department to support the processing and analysis of the backlog of city and county collision reports by January 2006. The amount provided in this subsection shall lapse if federal funds become available for this purpose.

(3) $150,000 of the multimodal transportation account--state appropriation is provided solely for the implementation of Engrossed Second Substitute House Bill No. 1565. If Engrossed Second Substitute House Bill No. 1565 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(4) The department of transportation shall evaluate the number of spaces available for long-haul truck parking relative

to current and projected future needs. The department of transportation shall also explore options for augmenting the number of spaces available, including, but not limited to, expanding state-owned rest areas or modifying regulations governing the use of these facilities, utilizing weigh stations and park and ride lots, and encouraging the expansion of the private sector's role. Finally, the department shall explore the utility of coordinating with neighboring states on long-haul truck parking and evaluate methodologies for alleviating any air quality issues relative to the issue. The department must report to the transportation committees of the legislature by December 1, 2005, on the options, strategies, and recommendations for long-haul truck parking.

(5) $50,000 of the multimodal transportation account--state appropriation is provided solely for evaluating high-speed passenger transportation facilities and services, including rail or magnetic levitation transportation systems, to connect airports as a means to more efficiently utilize airport capacity, as well as connect major population and activity centers. This evaluation shall be coordinated with the airport capacity and facilities market analysis conducted pursuant to Engrossed Substitute Senate Bill No. 5121 and results of the evaluation shall be submitted by July 1, 2007. If Engrossed Substitute Senate Bill No. 5121 is not enacted by June 30, 2005, or if federal funds are not received by March 1, 2006, for the purpose of implementing Engrossed Substitute Senate Bill No. 5121, the amount provided in this subsection shall lapse.

(6) $440,000 of the motor vehicle account--state appropriation is provided solely for completing funding for a route development plan of U.S. route 2.

(7) The department shall conduct a study of the resources allocated to each of the seven department regions and the corresponding workloads. Given the magnitude of the investments in the Puget Sound region, particular emphasis shall be given to reviewing the resources allocated and corresponding workloads with respect to the urban corridors region and the northwest region. Based on the results of this study, the department shall submit recommendations by December 1, 2006, to the legislature and the office of financial management regarding reallocating resources and revising regional boundaries within the department, as appropriate, in order to better coincide allocated resources with designated regional boundaries.

(8) $750,000 of the multimodal transportation account--state appropriation is provided solely for implementing Engrossed Substitute House Bill No. 2871. If Engrossed Substitute House Bill No. 2871 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse. The regional transportation commission's duties to develop, complete, and submit a governance proposal to the 2007 legislature are highly time sensitive. As a result, the legislature finds that competitive bidding is not cost-effective or appropriate for personal service contracts entered into by the commission, and that the director of the office of financial management should, by the director's authority under RCW 39.29.011(5), exempt any such personal service contract from the competitive bidding requirements of chapter 39.29 RCW.

(9) $2,300,000 of the transportation partnership account--state appropriation is provided solely for the costs of the regional transportation investment district (RTID) and department of transportation project oversight. The department shall provide support from its urban corridors region to assist in preparing project costs, expenditure plans, and modeling. The department shall not deduct a management reserve, nor charge management or overhead fees. These funds are provided as a loan to the RTID and shall be repaid to the state motor vehicle account within one year following the certification of the election results related to the RTID.

(10) $100,000 of the motor vehicle account--state appropriation is provided solely to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department solely to conduct an analysis of expanding the transportation concurrency requirements prescribed under the growth management act, chapter 36.70A RCW, to include development impacts on level of service standards applicable to state-owned transportation facilities, including state highways and state ferry routes. The objective of the analysis is to determine how to ensure that jurisdictional divisions do not defeat growth management act concurrency goals. The department shall convene a committee to oversee the analysis, with the committee comprised of, at a minimum, four members of the transportation committees of the legislature, four members of the appropriate land use committees of the legislature, and one member each from the association of Washington cities and the Washington state association of counties, or a designee thereof. The completed study, including recommendations, must be submitted to the appropriate standing committees of the legislature, and to the office of financial management, by December 1, 2006.

(11) The department of transportation, the Washington state economic revenue forecast council, and the office of financial management shall review and adopt a method of forecasting motor vehicle and special fuel prices, revenue, and the amount of consumption that has an increased rate of accuracy as compared to the existing method. The three agencies shall submit a report to the transportation committees of the legislature by December 1, 2006, outlining the methods researched and the criteria utilized to select and adopt the new fuel forecasting method.

(12) $150,000 of the multimodal transportation account--state appropriation is provided solely for a transportation demand management program, developed by the Whatcom council of governments, to further reduce drive-alone trips and maximize the use of sustainable transportation choices. The community based program must focus on all trips, not only commute trips, by providing education, assistance, and incentives to four target audiences: (a) Large work sites; (b) employees of businesses in downtown areas; (c) school children; and (d) residents of Bellingham.

Sec. 812. 2006 c 370 s 225 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--CHARGES FROM OTHER AGENCIES--PROGRAM U**

Motor Vehicle Account--State Appropriation . ((~~$46,874,000~~)) $47,374,000
Motor Vehicle Account--Federal Appropriation $400,000
TOTAL APPROPRIATION . ((~~$47,274,000~~)) $47,774,000

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

(1) ((~~$31,749,000~~)) $32,209,000 of the motor vehicle fund--state appropriation is provided solely for the liabilities attributable to the department of transportation. The office of financial management must provide a detailed accounting of the revenues and expenditures of the self-insurance fund to the transportation committees of the legislature on December 31st and June 30th of each year.

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

(a) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT
DIVISION OF RISK MANAGEMENT FEES $1,667,000

(b) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE
AUDITOR $1,026,000

(c) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL
ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED
MAIL SERVICES $4,049,000

(d) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF

PERSONNEL $4,548,000
(e) FOR PAYMENT OF SELF-INSURANCE LIABILITY
PREMIUMS AND ADMINISTRATION . . . . ((~~$31,749,000~~)) $32,249,000
(f) FOR PAYMENT OF THE DEPARTMENT OF GENERAL
ADMINISTRATION CAPITAL PROJECTS SURCHARGE
. . . . . $1,717,000
(g) FOR ARCHIVES AND RECORDS MANAGEMENT
. . . . . $545,000
(h) FOR OFFICE OF MINORITIES AND WOMEN BUSINESS
ENTERPRISES $1,124,000
(i) FOR PAYMENT OF THE DEPARTMENT OF PERSONNEL
HRMS PAYROLL SYSTEM $817,000
(j) FOR PAYMENT OF THE OFFICE OF FINANCIAL
MANAGEMENT ROADMAP CHARGES $12,000
(k) FOR PAYMENT OF OFFICE OF FINANCIAL MANAGEMENT
CAPITAL BUDGET SYSTEM CHARGES $15,000
(l) FOR PAYMENT OF DEPARTMENT OF INFORMATION SERVICES
RATE INCREASES $5,000

Sec. 813. 2006 c 370 s 226 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--PUBLIC TRANSPORTATION--PROGRAM V**

Multimodal Transportation Account--State
Appropriation . . . . . ((~~$87,233,000~~)) $70,005,000
Multimodal Transportation Account--Federal
Appropriation $2,603,000
Multimodal Transportation Account--Private/Local
Appropriation $155,000
TOTAL APPROPRIATION . ((~~$89,991,000~~)) $72,763,000

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

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

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

(b) $19,500,000 of the amount provided in this subsection is provided solely for grants to transit agencies to transport persons with special transportation needs. To receive a grant, the transit agency must have a maintenance of effort for special needs transportation that is no less than the previous year's maintenance of effort for special needs transportation. Grants for transit agencies shall be prorated based on the amount expended for demand response service and route deviated service in calendar year 2003 as reported in the "Summary of Public Transportation - 2003" published by the department of transportation. No transit agency may receive more than thirty percent of these distributions. The first $450,000 provided to King county shall be used as follows:

(i) $320,000 shall be used to provide electric buses, instead of diesel buses, for service on Capital Hill in Seattle, Washington through June 30, 2007;

(ii) $130,000 shall be used to provide training for blind individuals traveling through Rainier Valley and the greater Seattle area. The training is to include destination training and retraining due to the expected closure of the downtown bus tunnel and training on how to use the Sound Transit light rail system.

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

(a) $7,000,000 of the multimodal transportation account--state appropriation is provided solely for grants for those transit systems serving small cities and rural areas as identified in the Summary of Public Transportation - 2003 published by the department of transportation. Noncompetitive grants must be distributed to the transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs.

(b) $7,000,000 of the multimodal transportation account--state appropriation is provided solely to providers of rural mobility service in areas not served or underserved by transit agencies through a competitive grant process.

(3) $8,900,000 of the multimodal transportation account--state appropriation is provided solely for a vanpool grant program for: (a) Public transit agencies to add vanpools; and (b) incentives for employers to increase employee vanpool use. The grant program for public transit agencies will cover capital costs only; no operating costs for public transit agencies are eligible for funding under this grant program. No additional employees may be hired from the funds provided in this section for the vanpool grant program, and supplanting of transit funds currently funding vanpools is not allowed. Additional criteria for selecting grants must include leveraging funds other than state funds.

(4) $3,000,000 of the multimodal transportation account--state appropriation is provided solely for the city of Seattle for the Seattle streetcar project on South Lake Union.

(5) $1,200,000 of the multimodal transportation account--state appropriation is provided solely for the implementation of Engrossed Substitute House Bill No. 2124. If Engrossed Substitute House Bill No. 2124 is not enacted by June 30, 2005, the amount provided in this subsection shall lapse.

(6)(a) ((~~$20,000,000~~)) $2,832,000 of the multimodal transportation account--state appropriation is provided solely for the regional mobility grant projects identified on the LEAP Transportation Document 2006-D, Regional Mobility Grant Program Projects as developed March 8, 2006. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. When funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout, the department shall expeditiously extend new grant awards to qualified alternative projects identified on the list.

(b) Pursuant to the grant program established in RCW 47.66.030, the department shall issue a call for projects and/or service proposals. Applications must be received by the department by November 1, 2005, and November 1, 2006. The department must submit a prioritized list for funding to the transportation committees of the legislature that reflects the department's recommendation, as well as, a list of all project or service proposals received.

(7) $2,000,000 of the multimodal transportation account--state appropriation is provided solely for new tri-county connection service for Island, Skagit, and Whatcom transit agencies.

(8) $2,000,000 of the multimodal transportation account--state appropriation is provided solely to King county as a state match to obtain federal funding for a car sharing program for persons meeting certain income or employment criteria.

(9) $750,000 of the multimodal transportation account--state appropriation is provided solely for the implementation of the local government and regional transportation planning requirements in Engrossed Substitute Senate Bill No. 6566 (commute trip reduction). The department may use contract or temporary employees to implement the bill and shall allocate the remaining funds to regional transportation planning organizations, counties, and cities on an as needed basis. If Engrossed Substitute Senate Bill No. 6566 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(10) ((~~$200,000~~)) $140,000 of the multimodal account appropriation is provided solely for up to three low-income car ownership programs. The department shall seek to leverage available federal funds from the job access and reverse commute program to augment the funding provided in this subsection. Additionally, the department shall report back to the appropriate committees of the legislature with a review of the obstacles presented by state laws on surplus property disposal to community organizations reconditioning cars and selling those cars at below market rates to low-income families.

Sec. 814. 2006 c 370 s 227 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--MARINE--PROGRAM X**

Puget Sound Ferry Operations Account--State
Appropriation . . . . . ((~~$372,254,000~~)) $389,249,000

Multimodal Transportation Account--State
Appropriation $3,660,000

TOTAL APPROPRIATION ((~~$375,914,000~~)) $392,909,000

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

(1) ((~~$75,280,000~~)) $81,664,000 of the total appropriation is provided solely for auto ferry vessel operating fuel in the 2005-2007 biennium.

(2) The maximum amount of expenditures for compensation paid to ferry employees during the 2005-2007 biennium shall not exceed ((~~$226,455,000~~)) $236,085,000. This amount reflects the sole source of state funding available to support the implementation of any collective bargaining agreements or arbitration awards with respect to state ferry employee compensation, including salaries, wages, and employee benefits, during the 2005-2007 biennium, which amount includes $6,223,000 in full satisfaction of the arbitration awards for the 2001-2003 biennium and $1,339,000 for labor productivity gains agreements and $8,870,000 in full satisfaction of the arbitration awards and the negotiated collective bargaining agreements for the 2003-2005 and 2005-2007 biennia. The department's use of this expenditure authority constitutes a good faith attempt to implement such agreements and awards, including those applicable to prior biennia. It is the intent of the legislature that the expenditure authority provided in this subsection fully satisfy any agreements or awards required to be implemented during the 2005-2007 biennium, and that the provisions of Substitute House Bill No. 3178 (marine employees collective bargaining) will govern the implementation of agreements or awards effective beginning with the 2007-2009 biennium. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's state administrative and accounting manual, chapter 75.70, named under objects of expenditure "A" and "B".

(3) $1,116,000 of the Puget Sound ferry operations account--state appropriation is provided solely for ferry security operations necessary to comply with the ferry security plan submitted by the Washington state ferry system to the United States coast guard. The department shall track security costs and expenditures. Ferry security operations costs shall not be included as part of the operational costs that are used to calculate farebox recovery.

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

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

(6) $3,660,000 of the multimodal transportation account--state appropriation is provided solely to provide passenger-only ferry service. The ferry system shall continue passenger-only ferry service from Vashon Island to Seattle until such time as a county ferry district's assumption of the route, as authorized by Substitute Senate Bill No. 6787. Beginning September 1, 2005, ferry system management shall implement its agreement with the Inlandboatmen's Union of the Pacific and the International Organization of Masters, Mates and Pilots providing for part-time passenger-only work schedules.

(7) $350,000 of the Puget Sound ferry operations account--state appropriation is provided solely for the implementation of Substitute House Bill No. 3178 (marine employees collective bargaining). If Substitute House Bill No. 3178 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.

(8) $613,000 of the Puget Sound ferries operations account--state appropriation is provided solely for compliance with department of ecology rules regarding the transfer of oil on or near state waters.

Sec. 815. 2006 c 370 s 228 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--OPERATING**

Multimodal Transportation Account--State
Appropriation . . . . . ((~~$36,876,000~~)) $35,376,000

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

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

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

(2) ((~~$2,750,000~~)) $1,500,000 of the multimodal transportation account--state appropriation is provided solely for a new round trip rail service between Seattle and Portland beginning July 1, 2006.

(3) No AMTRAK Cascade runs may be eliminated.

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

(5) $500,000 of the multimodal transportation account--state appropriation is provided solely for a study of the realignment of highway and rail in the Longview industrial area (SR 432) corridor, specifically regarding whether the construction of a limited access bypass highway to reduce congestion resulting from anticipated growth in future rail and truck traffic, is a feasible alternative. In conducting the study, the department shall consult port districts, local government planning staff, and rail road companies, and other appropriate stakeholders.

(6) $60,000 of the multimodal transportation account--state appropriation is provided solely for a study of the need for

transloading capabilities in the West Plains area that could be served by the Geiger Spur, including evaluation of prospective transloader sites, potential operators and users, and the type, size, and special needs of shippers/customers. The study must also evaluate the costs associated with building and operating a transloader site and the impact to local roadways and surrounding land uses. In conducting the study, the department shall consult with Spokane County.

Sec. 816. 2006 c 370 s 229 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--OPERATING**

Motor Vehicle Account--State Appropriation . . ((~~$8,500,000~~)) $8,836,000
Motor Vehicle Account--Federal Appropriation . . . $2,597,000
Multimodal Transportation Account--State Appropriation . . . . . ((~~$411,000~~)) $200,000
TOTAL APPROPRIATION . ((~~$11,508,000~~)) $11,633,000

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

(1) $211,000 of the motor vehicle account--state appropriation and ((~~$411,000~~)) $200,000 of the multimodal transportation account--state appropriation are provided solely for the state's contribution to county and city studies of flood hazards in association with interstate highways. First priority shall be given to threats along the I-5 corridor.

(2) ((~~$525,000~~)) $861,000 of the motor vehicle account--state appropriation is provided solely to the department in accordance with RCW 46.68.110(2) and 46.68.120(3) and shall be used by the department solely for contract services with the association of Washington cities and the Washington state association of counties for improving transportation permitting and mitigation processes.

TRANSPORTATION AGENCIES--CAPITAL

Sec. 901. 2006 c 370 s 301 (uncodified) is amended to read as follows: **FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Rural Arterial Trust Account--State Appropriation . . . . . ((~~$64,933,000~~)) $38,046,000
Motor Vehicle Account--State Appropriation $355,000
County Arterial Preservation Account--State Appropriation . . . . . ((~~$32,697,000~~)) $31,882,000
TOTAL APPROPRIATION . ((~~$97,985,000~~)) $70,283,000

The appropriations in this section are subject to the following conditions and limitations: $355,000 of the motor vehicle account--state appropriation is provided for county ferries as set forth in RCW 47.56.725(4).

Sec. 902. 2006 c 370 s 302 (uncodified) is amended to read as follows: **FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Urban Arterial Trust Account--State Appropriation . . . . . ((~~$101,425,000~~)) $93,425,000
Small City Preservation and Sidewalk Account--State Appropriation . . . . . ((~~$2,000,000~~)) $1,696,000
Transportation Improvement Account--State Appropriation . . . . . ((~~$94,401,000~~)) $82,258,000
TOTAL APPROPRIATION ((~~$197,826,000~~)) $177,379,000

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

(1) The transportation improvement account--state appropriation includes up to ((~~$14,143,000~~)) $7,000,000 in proceeds from the sale of bonds authorized in RCW 47.26.500.

(2) ((~~$2,000,000~~)) $1,696,000 of the small city preservation and sidewalk account--state appropriation is provided to fund the provisions of chapter 83, Laws of 2005 (Substitute Senate Bill No. 5775).

Sec. 903. 2006 c 370 s 303 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--PROGRAM D (DEPARTMENT OF TRANSPORTATION-ONLY PROJECTS)--CAPITAL**

Motor Vehicle Account--State Appropriation . . ((~~$2,328,000~~)) $1,911,000

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

(1) $584,000 of the motor vehicle account--state appropriation is provided solely for statewide administration.

(2) ((~~$632,000~~)) $561,000 of the motor vehicle account--state appropriation is provided solely for regional minor projects.

(3) ((~~$305,000~~)) $40,000 of the motor vehicle account--state appropriation is provided solely for designing the replacement of the existing outdated maintenance facility in Ephrata.

(4) ((~~$239,000~~)) $158,000 of the motor vehicle account--state appropriation is provided solely for the designing of the northwest regional maintenance complex in Seattle.

(5) $568,000 of the motor vehicle account--state appropriation is provided solely for the Olympic region headquarters project.

((~~(a) The department of transportation is authorized to use certificates of participation for the financing of the Olympic region project in the amount of $34,874,000 plus financing expenses and required reserves pursuant to chapter 39.94 RCW.~~

~~(b) The Washington state department of transportation may utilize the design-build process in accordance with chapter 39.10 RCW for the Olympic region project. If the design-build process is used, it may be developed in partnership with the department of general administration.~~))

Sec. 904. 2006 c 370 s 306 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--TRAFFIC OPERATIONS--PROGRAM Q--CAPITAL**

Motor Vehicle Account--State Appropriation . ((~~$17,555,000~~)) $11,162,000
Motor Vehicle Account--Federal Appropriation ((~~$15,068,000~~)) $10,308,000
Motor Vehicle Account--Local Appropriation . . . . ((~~$108,000~~)) $50,000
TOTAL APPROPRIATION . ((~~$32,731,000~~)) $21,520,000

The appropriations in this section are subject to the following conditions and limitations: The motor vehicle account--state appropriation includes ((~~$11,255,000~~)) $11,162,000 for state matching funds for federally selected competitive grant or congressional earmark projects other than the commercial vehicle information systems and network. These moneys shall be placed into reserve status until such time as federal funds are secured that require a state match.

Sec. 905. 2006 c 370 s 304 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--IMPROVEMENTS--PROGRAM I**

Transportation 2003 Account (Nickel Account)--State Appropriation . . . . . ((~~$1,190,511,000~~)) $1,079,697,000
Motor Vehicle Account--State Appropriation . ((~~$85,165,000~~)) $84,385,000
Motor Vehicle Account--Federal Appropriation((~~$395,043,000~~)) $352,856,000
Motor Vehicle Account--Private/Local Appropriation . . . . . ((~~$58,522,000~~)) $47,655,000

Special Category C Account--State Appropriation . . . . . ((~~$3,479,000~~)) $3,152,000

Tacoma Narrows Toll Bridge Account Appropriation $274,038,000

Transportation Partnership Account--State Appropriation . . . . . ((~~$384,186,000~~)) $289,436,000

Multimodal Transportation Account--State Appropriation . . . . . ((~~$1,002,000~~)) $750,000

TOTAL APPROPRIATION ((~~$2,391,946,000~~)) $2,131,969,000

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

(1)(a) The entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by ((~~fund,~~)) project ((~~and amount~~)) in LEAP Transportation Document 2006-1, Highway Improvement Program (I) as developed March 8, 2006. ((~~However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.~~))

(b) Within the amounts provided in this subsection, $6,835,000 of the transportation partnership account--state appropriation, $5,002,000 of the transportation 2003 account (nickel account)--state appropriation, and $2,645,000 of the motor vehicle account--federal appropriation are for project 109040T: I-90/Seattle to Mercer Island ? Two way transit/HOV. Expenditure of these funds on construction is contingent upon the development of an access plan that provides equitable and dependable access for I-90 Mercer Island exit and entry.

(c) Within the amounts provided in this subsection, $500,000 of the transportation partnership account--state appropriation is for a west Olympia access study, to complete an access study for state route 101/west Olympia.

(d) Within the amounts provided in this subsection, $800,000 of the transportation partnership account--state appropriation is for an SR 534 access point decision report.

(f) Within the amounts provided within this subsection, $6,000,000 of the transportation partnership account--state appropriation is for project 509009B: I-90 Snoqualmie Pass East - Hyak to Keechelus dam. However, if the preferred alternative selected for this project results in a lower total project cost, the remaining funds may be used for concrete rehabilitation on I-90 in the vicinity of this project.

(g) Within the amounts provided in this subsection, $12,841,000 of the transportation 2003 account (nickel account)--state appropriation and $4,939,000 of the transportation partnership account--state appropriation are for construction of a new interchange on SR 522 to provide direct access to the University of Washington Bothell/Cascadia community college joint campus. This appropriation assumes an additional $8,061,000 will be provided in the 2007-09 biennium from the transportation partnership account.

(h) Within the amounts provided in this subsection, $19,262,149 of the motor vehicle account--federal appropriation and $1,873,478 of the transportation 2003 account (nickel account) appropriation are for project 154302E: SR 543 (I-5 to the international boundary).

(2) The motor vehicle account--state appropriation includes up to $50,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843.

(3) The department shall not commence construction on any part of the state route number 520 bridge replacement and HOV project until a record of decision has been reached providing reasonable assurance that project impacts will be avoided, minimized, or mitigated as much as practicable to protect against further adverse impacts on neighborhood environmental quality as a result of repairs and improvements made to the state route 520 bridge and its connecting roadways, and that any such impacts will be addressed through engineering design choices, mitigation measures, or a combination of both. The requirements of this section shall not apply to off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.

(4) The transportation partnership account--state appropriation includes up to $150,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.873.

(5) The Tacoma Narrows toll bridge account--state appropriation includes up to $257,016,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The Tacoma Narrows toll bridge account-- state appropriation includes up to $17,022,000 in unexpended proceeds from the March 2005 bond sale authorized in RCW 47.10.843 for the Tacoma Narrows bridge project.

(6) The transportation 2003 account (nickel account)--state appropriation includes up to $880,000,000 in proceeds from the sale of bonds authorized by chapter 147, Laws of 2003.

(7) The department shall, on a quarterly basis beginning July 1, 2005, provide to the office of financial management and the legislature reports providing the status on each project in the project lists submitted pursuant to this act. Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(8) The department of transportation shall conduct an analysis of the causes of traffic congestion on I-5 in the vicinity of Fort Lewis and develop recommendations for alleviating the congestion. The department must report to the transportation committees of the legislature by December 1, 2005, on its analysis and recommendations regarding traffic congestion on I-5 in the vicinity of Fort Lewis.

(9) The department of transportation is authorized to proceed with the SR 519 Intermodal Access project if the city of Seattle has not agreed to a project configuration or design by July 1, 2006.

(10) The motor vehicle account--state appropriation includes up to $14,214,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.843.

(11) The special category C account--state appropriation includes up to $1,710,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.812.

(12) The department should consider using mitigation banking on appropriate projects whenever possible, without increasing the cost to projects. The department should consider using the advanced environmental mitigation revolving account (AEMRA) for corridor and watershed based mitigation opportunities, in addition to project specific mitigation.

(13) $500,000 of the motor vehicle account--state appropriation is provided solely for a planning study regarding congestion mitigation improvements on state route 101 in the vicinity of the city of Aberdeen.

(14) $6,200,000 of the motor vehicle account--federal appropriation is provided solely for eastern Washington international border crossing and freight mobility projects, including pavement preservation, pavement structural strengthening, and other safety enhancements. Projects shall include funding for U.S. route 97 international border vicinity paving and improvement projects.

(15) $3,509,738 of the motor vehicle account--federal appropriation and $30,793 of the motor vehicle account--state appropriation are provided solely for project 100598C: I-5 Blaine Exit interchange improvements.

(((~~(17)~~))) (16) The legislature recognizes that the finance and project implementation planning processes required for the Alaskan Way viaduct and Seattle Seawall replacement project and the SR 520 bridge replacement and HOV project cannot guarantee appropriate decisions unless key study assumptions are reasonable with respect to each project.

To assure appropriate finance plan and project implementation plan assumptions, an expert review panel shall be appointed to provide independent financial and technical review for development of a finance plan and project implementation plan for the projects described in this subsection.

(a) The expert review panel shall consist of five to ten members who are recognized experts in relevant fields, such as planning, engineering, finance, law, the environment, emerging transportation technologies, geography, and economics.

(b) The expert review panel shall be selected cooperatively by the chairs of the senate and house transportation committees, the secretary of the department of transportation, and the governor to assure a balance of disciplines.

(c) The chair of the expert review panel shall be designated by the governor.

(d) The expert panel shall, with respect to completion of the project alternatives as described in the draft environmental impact statement of each project:

(i) Review the finance plan for the project to ensure that it clearly identifies secured and anticipated funding sources and is feasible and sufficient;

(ii) Review the project implementation plan covering all state and local permitting and mitigation approvals that ensure the most expeditious and cost-effective delivery of the project; and

(iii) Report its findings and recommendations on the items described in (d)(i) and (ii) of this subsection to the joint transportation committee, the office of financial management, and the governor no later than September 1, 2006.

(e) Upon receipt of the expert review panel's findings and recommendations under (d)(iii) of this subsection, the governor must make a finding of whether each finance plan is feasible and sufficient to complete the project as described in the draft environmental impact statement.

(f) Nothing in this section shall be interpreted to delay construction of any of the projects referenced in this subsection.

(((~~(18)(a) Prior to commencing construction on either project, the department of transportation must complete all of the following requirements for both the Alaskan Way viaduct and Seattle Seawall replacement project, and the state route number 520 bridge replacement and HOV project: (i) In accordance with the national environmental policy act, the department must designate the preferred alternative, prepare a substantial project mitigation plan, and complete a comprehensive cost estimate review using the department's cost estimate validation process, for each project; (ii) in accordance with all applicable federal highway administration planning and project management requirements, the department must prepare a project finance plan for each project that clearly identifies secured and anticipated fund sources, cash flow timing requirements, and project staging and phasing plans if applicable; and (iii) the department must report these results for each project to the joint transportation committee.~~

~~(b) The requirements of this subsection shall not apply to (i) utility relocation work, and related activities, on the Alaskan Way viaduct and Seattle Seawall replacement project and (ii) off-site pontoon construction supporting the state route number 520 bridge replacement and HOV project.~~))

Sec. 906. 2006 c 370 s 305 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--PRESERVATION--PROGRAM P**

Transportation 2003 Account (Nickel Account)--State
Appropriation . . . . . ((~~$1,687,000~~)) $1,690,000

Motor Vehicle Account--State Appropriation . ((~~$94,799,000~~)) $88,954,000

Motor Vehicle Account--Federal Appropriation((~~$435,310,000~~)) $426,297,000

Motor Vehicle Account--Private/Local Appropriation
. . . . . ((~~$8,485,000~~)) $6,194,000

((~~Puyallup Tribal Settlement Account--State Appropriation . . . . . $11,000,000~~))

Transportation Partnership Account--State
Appropriation . . . . . ((~~$24,540,000~~)) $20,180,000

TOTAL APPROPRIATION ((~~$575,821,000~~)) $543,315,000

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

(1) The entire transportation 2003 account (nickel account) appropriation and the entire transportation partnership account appropriation are provided solely for the projects and activities as listed by ((~~fund,~~)) project ((~~and amount~~)) in LEAP Transportation Document 2006-1, Highway Preservation Program (P) as developed March 8, 2006. ((~~However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.~~))

(2) $11,000,000 of the Puyallup tribal settlement account--state appropriation is provided solely for mitigation costs associated with the Murray Morgan/11th Street Bridge demolition. The department may negotiate with the city of Tacoma for the purpose of transferring ownership of the Murray Morgan/11th Street Bridge to the city. The department may use the Puyallup tribal settlement account appropriation, as well as any funds appropriated in the current biennium and planned in future biennia for the demolition and mitigation for the demolition of the bridge to rehabilitate or replace the bridge, if agreed to by the city. In no event shall the department's participation exceed $26,500,000 and no funds may be expended unless the city of Tacoma agrees to take ownership of the bridge in its entirety and provide that the payment of these funds extinguishes any real or implied agreements regarding future expenditures on the bridge.

(3) $740,000 of the motor vehicle account--state appropriation, $106,149,000 of the motor vehicle account--federal appropriation, and $10,305,000 of the transportation partnership account--state appropriation are provided solely for the Hood Canal bridge project.

(4) The motor vehicle account--state appropriation includes up to $735,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.761 and 47.10.762 for emergency purposes.

(5) The department of transportation shall continue to implement the lowest life cycle cost planning approach to pavement management throughout the state to encourage the most effective and efficient use of pavement preservation funds. Emphasis should be placed on increasing the number of roads addressed on time and reducing the number of roads past due.

(6) The department shall, on a quarterly basis beginning July 1, 2005, provide to the office of financial management and the legislature reports providing the status on each project in the project lists submitted pursuant to this act. Other projects may be reported on a programmatic basis. The department shall work with the office of financial management and the transportation committees of the legislature to agree on report formatting and elements. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information systems (TEIS).

(7) The motor vehicle account--state appropriation includes up to $912,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.843.

(8) The motor vehicle account--state appropriation includes up to $6,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843.

(9) ((~~$4,000,000~~)) $3,200,000 of the motor vehicle account--federal appropriation and $6,000,000 of the motor vehicle account--state appropriation, as specified in subsection (8) of this section, are for expenditures on damaged state roads due to flooding, mudslides, rock fall, or other unforeseen events. Slide repair on state routes 101, 4, 107, and 105 must be funded from this amount if federal emergency funds are not available.

Sec. 907. 2006 c 370 s 307 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--WASHINGTON STATE FERRIES CONSTRUCTION--PROGRAM W**

Puget Sound Capital Construction Account--State
Appropriation . . . . . ((~~$122,324,000~~)) $113,296,000
Puget Sound Capital Construction Account--Federal
Appropriation . . . . . ((~~$73,590,000~~)) $47,873,000
Puget Sound Capital Construction Account--Private/Local
Appropriation $26,000
Multimodal Transportation Account--State
Appropriation . . . . . ((~~$13,249,000~~)) $10,749,000
Transportation 2003 Account (Nickel Account)--State
Appropriation . . . . . ((~~$34,991,000~~)) $17,391,000
TOTAL APPROPRIATION ((~~$244,180,000~~)) $189,335,000

The appropriations in this section are provided for improving the Washington state ferry system, including, but not limited to, vessel construction, major and minor vessel preservation, and terminal preservation, construction, and improvements. The appropriations in this section are subject to the following conditions and limitations:

(1) The Puget Sound capital construction account--state appropriation includes up to ((~~$40,950,000~~)) $40,288,000 in proceeds from the sale of bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead time materials acquisition for the Washington state ferries.

(2) The multimodal transportation account--state appropriation includes up to ((~~$10,249,000~~)) $9,079,000 in proceeds from the sale of bonds authorized by RCW 47.10.867.

(3) $15,617,000 of the Puget Sound capital construction account--state appropriation is provided solely for the Eagle Harbor Terminal Preservation project.

(4) The entire transportation 2003 account (nickel account) appropriation and $10,249,000 of the multimodal transportation account--state appropriation are provided solely for the projects and activities as listed by fund, project and amount in LEAP Transportation Document 2006-1, Ferries Construction Program (W) as developed March 8, 2006. However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(5) The department shall, on a quarterly basis beginning July 1, 2005, provide to the office of financial management and the legislature reports providing the status on each project in the project lists submitted pursuant to this act and on any additional projects for which the department has expended funds during the 2005-07 fiscal biennium. Elements shall include, but not be limited to, project scope, schedule, and costs. The department shall also provide the information required under this subsection via the transportation executive information systems (TEIS).

(6) $3,000,000 of the multimodal transportation account--state appropriation is provided solely for passenger-only projects. Projects may include vessel or terminal projects or costs associated with selling vessels.

(7) The multimodal transportation account--state appropriation includes up to $1,170,000 in unexpended proceeds from the sale of bonds authorized in RCW 47.10.867.

Sec. 908. 2006 c 370 s 308 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--RAIL--PROGRAM Y--CAPITAL**

((~~Essential Rail Assistance Account--State Appropriation . . . . . $250,000~~))
Motor Vehicle Account--Federal Appropriation . . . $1,485,000
Multimodal Transportation Account--State
Appropriation . . . . . ((~~$68,176,000~~)) $57,814,000
Multimodal Transportation Account--Private/Local
Appropriation . . . . . ((~~$8,287,000~~)) $551,000
Multimodal Transportation Account--Federal
Appropriation . . . . . ((~~$17,268,000~~)) $10,198,000
TOTAL APPROPRIATION . ((~~$93,981,000~~)) $70,048,000

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

(1) The multimodal transportation account--state appropriation includes up to ((~~$33,435,000~~)) $1,422,000 in proceeds from the sale of bonds ((~~and up to $830,000 in unexpended bond proceeds authorized by RCW 47.10.867~~)).

(2) If federal block grant funding for freight or passenger rail is received, the department shall consult with the transportation committees of the legislature prior to spending the funds on additional projects.

(3)(a) ((~~$68,176,000~~)) $56,399,000 of the multimodal transportation account--state appropriation, ((~~$17,268,000~~)) $10,198,000 of the multimodal transportation account--federal appropriation, ((~~$8,287,000~~)) $551,000 of the multimodal transportation account--local appropriation, and ((~~$250,000 of the essential rail assistance account~~)) $1,485,000 of the motor vehicle account--federal appropriation are provided solely for the projects and activities as listed by ((~~fund,~~)) project ((~~and amount~~)) in LEAP Transportation Document 2006-C, Rail Capital Program (Y) as developed March 8, 2006. ((~~However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.~~))

(b) Within the amounts provided in this subsection, ((~~$6,500,000~~)) $5,000,000 of the multimodal transportation account--state appropriation is for the ((~~two~~)) commuter rail project((~~s~~)) listed in the LEAP Transportation Document 2006-C, Rail Capital Program (Y) as developed March 8, 2006.

(c) Within the amounts provided in this subsection, $10,937,000 of the multimodal transportation account--state appropriation is for the cost of the memorandum of understanding for the acquisition of the Palouse River Coulee City (PCC) rail lines.

(i) The office of financial management shall negotiate the purchase of the CW line. The purchase agreement must include both the operating and capital rights of the CW line. If the office of financial management is unable to negotiate the purchase of the CW line, the office may stop all negotiations and acquire the line and operational rights through any other alternative means available. The office of financial management shall also negotiate a new operational agreement for the line, in consultation with local governments and other stakeholders. The operational agreement shall be assignable, at the state's option, to any intergovernmental entity or local rail district that expresses interest in the operating rights to the line.

((~~(d)~~)) (ii) The office of financial management shall negotiate the purchase of the operating rights of the P&L and PV Hooper lines. If the office of financial management is unable to negotiate the purchase of the operating rights of the P&L and PV Hooper lines, the office may stop all negotiations and acquire the operating rights through any other alternative

means available. Watco will continue to operate the PV Hooper line, as required by contract. The office of financial management shall also negotiate a new operational agreement(((~~s~~))) for the P&L ((~~and PV Hooper lines~~)) line in consultation with local governments and other stakeholders. The operational agreement negotiated shall be assignable, at the state's option, to any intergovernmental entity or local rail district that expresses interest in the operating rights to the line. If, upon expiration of the operational agreement for the PV Hooper line, any intergovernmental entity or local rail district expresses interest in the operating rights to the PV Hooper rail line, then the department shall assign the operating rights to the line to the intergovernmental entity or local rail district.

(((~~c~~))) (iii) In order to maintain the operation of the Palouse River & Coulee City rail lines, the office of financial management is authorized to negotiate an agreement wherein they may forgive all or part of the existing freight rail assistance loan to the current operator of the Palouse River & Coulee City rail lines in exchange for good and valuable consideration.

(iv) Following acquisition of the PCC rail lines, the department shall not expend funds provided in (a) of this subsection to refurbish the lines or provide an operating subsidy for the lines.

(4) If the department issues a call for projects, applications must be received by the department by November 1, 2005, and November 1, 2006.

(5) $50,000 of the multimodal transportation account--state appropriation is provided solely for a study of eastern Skagit county freight rail. The study shall examine the feasibility of restoring portions of freight rail line to the towns of Lyman, Hamilton, and Concrete. The study must also identify existing and potential industrial sites available for development and redevelopment, and the freight rail service needs of the identified industrial sites.

(6) The department shall finalize and issue the Amtrak Cascades long range plan update as of the effective date of this act.

(7) Funds provided for the Tacoma rail improvement project may be expended for preconstruction engineering.

(8) $2,500,000 of the multimodal transportation account--state appropriation is provided solely for a rail loop at the Port of Walla Walla.

Sec. 909. 2006 c 370 s 309 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--LOCAL PROGRAMS--PROGRAM Z--CAPITAL**

((~~Highway Infrastructure Account--State Appropriation~~$207,000
~~Highway Infrastructure Account--Federal Appropriation~~
. . . . . ~~$1,602,000~~))
Motor Vehicle Account--Federal Appropriation ((~~$48,998,000~~))
$16,734,000
Motor Vehicle Account--State Appropriation . . ((~~$8,340,000~~))
$1,836,000
Transportation Partnership Account--State
Appropriation . . . . . ((~~$2,008,000~~))
$694,000
((~~Freight Mobility Investment Account--State Appropriation~~ . . . . . ~~$6,000,000~~
~~Passenger Ferry Account--State Appropriation~~ . . . ~~$9,000,000~~))
Multimodal Transportation Account--State
Appropriation . . . . . ((~~$39,403,000~~))
$21,860,000
Transportation 2003 Account (nickel account)--State
Appropriation . . . . . ((~~$557,000~~))
$145,000
Freight Mobility Multimodal Account--State
Appropriation . . . . . ((~~$9,700,000~~))
$1,150,000
Freight Mobility Multimodal Account--
Private/Local Appropriation $3,050,000
TOTAL APPROPRIATION ((~~$125,815,000~~))
$45,469,000

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

(1) To manage some projects more efficiently, federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the office of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2006.

(2) The department shall, on a quarterly basis, provide status reports to the legislature on the delivery of projects as outlined in the project lists distributed with this act, and on any additional projects for which the department has expended funds during the 2005-07 fiscal biennium, except for projects managed by the freight mobility strategic investment board. The department shall work with the transportation committees of the legislature to agree on report formatting and elements. For projects funded by new revenue in the 2003 and 2005 transportation packages, reporting elements shall include, but not be limited to, project scope, schedule, and costs. Other projects may be reported on a programmatic basis. The department shall also provide the information required under this subsection on a quarterly basis via the transportation executive information system (TEIS).

(3) The multimodal transportation account--state appropriation includes up to $6,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.867.

(4) $1,545,000 of the multimodal transportation account--state appropriation is reappropriated and provided solely to fund the multiphase cooperative project with the state of Oregon to dredge the Columbia River. The amount provided in this subsection shall lapse unless the state of Oregon appropriates a dollar-for-dollar match to fund its share of the project.

(5) Up to $206,000 of the motor vehicle account--state appropriation is reappropriated and provided ((~~solely~~)) for additional traffic and pedestrian safety improvements near schools. The highways and local programs division within the department of transportation shall administer this program. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded traffic and pedestrian safety improvement grant funds, but does not report activity on the project within one year of grant award should be reviewed by the department to determine whether the grant should be terminated. The department must promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. The department shall expeditiously extend new grant awards to qualified projects when funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout.

(6) The motor vehicle account--state appropriation includes up to $905,000 in unexpended proceeds from the sale of bonds authorized by RCW 47.10.843.

(7) Up to $607,000 of the multimodal transportation account--state appropriation is reappropriated and provided ((~~solely~~)) to support the safe routes to school program.

(8) ((~~$16,110,000~~)) Up to $7,488,000 of the motor vehicle account--federal appropriation is provided ((~~solely~~)) for the local freight capital projects in progress identified in this subsection. The specific funding listed is provided ((~~solely~~)) for the respective projects: SR 397 Ainsworth Ave. Grade Crossing, $4,992,000; Colville Alternate Truck Route,

$1,746,000; ((~~S. 228th Street Extension and Grade Separation, $6,500,000; Bigelow Gulch Road-Urban Boundary to Argonne Rd., $2,000,000; Granite Falls Alternate Route, $122,000;~~)) and Pacific Hwy. E./Port of Tacoma Road to Alexander, $750,000.

(9) ((~~$2,898,000~~)) Up to $1,011,000 of the motor vehicle account--state appropriation is provided ((~~solely~~)) for the local freight capital projects in progress identified in this subsection. The specific funding listed is provided ((~~solely~~)) for the respective projects: Duwamish Intelligent Transportation Systems (ITS), ((~~$2,382,000~~)) $495,000; Port of Kennewick/Piert Road, $516,000.

(10) Up to $6,000,000 of the multimodal account--state appropriation is provided ((~~solely~~)) for the local freight 'D' street grade separation project.

(11) The department shall issue a call for pedestrian safety projects, such as safe routes to schools and transit, and bicycle and pedestrian paths. Applications must be received by the department by November 1, 2005, and November 1, 2006. The department shall identify cost-effective projects, and submit a prioritized list to the legislature for funding by December 15th of each year. Recommendations made to the legislature for safe routes to schools and bicycle and pedestrian path projects must, to the extent practicable based on available funding, allocate sixty percent of available funds to bicycle and pedestrian path projects and forty percent to safe routes to schools. Preference shall be given to projects that provide a local match.

(12) ((~~$18,370,000~~)) Up to $12,000,000 of the multimodal transportation account--state appropriation, ((~~$6,000,000~~)) up to $2,440,000 of the freight mobility multimodal account--state appropriation, and up to $2,008,000 of the transportation partnership account--state appropriation((~~, and $6,000,000 of the freight mobility investment account--state appropriation~~)) are provided ((~~solely~~)) for the projects and activities as listed by fund, project and amount in LEAP Transportation Document 2006-1, Local Programs (Z) as developed March 8, 2006. However, limited transfers of allocations between projects may occur for those amounts listed subject to the conditions and limitations in section 603 of this act.

(13) $870,000 of the multimodal transportation account--state appropriation is provided solely for the Yakima Avenue, 9th Street to Front Street, pedestrian safety improvement project.

(14) Up to $5,000,000 of the multimodal transportation account--state appropriation and up to $2,000,000 of the motor vehicle account--federal appropriation are provided ((~~solely~~)) for the pedestrian and bicycle safety program projects and safe routes to schools program projects identified on the LEAP Transportation Document 2006-B, Pedestrian and Bicycle Safety Program Projects and Safe Routes to Schools Program Projects as developed March 8, 2006. Projects must be allocated funding based on order of priority. The department shall review all projects receiving grant awards under this program at least semiannually to determine whether the projects are making satisfactory progress. Any project that has been awarded funds, but does not report activity on the project within one year of the grant award, shall be reviewed by the department to determine whether the grant should be terminated. The department shall promptly close out grants when projects have been completed, and identify where unused grant funds remain because actual project costs were lower than estimated in the grant award. When funds become available either because grant awards have been rescinded for lack of sufficient project activity or because completed projects returned excess grant funds upon project closeout, the department shall expeditiously extend new grant awards to qualified alternative projects identified on the list.

(15) Up to $9,700,000 of the motor vehicle account--federal appropriation is provided ((~~solely~~)) for the intersection and corridor safety program projects as identified on the LEAP Transportation Document 2006-A, Intersection and Corridor Safety Program Projects as developed March 8, 2006.

(16) Up to $19,500,000 of the motor vehicle account--federal appropriation is provided ((~~solely~~)) for rural county two-lane roadway pilot projects including $7,500,000 already under contract. Any further allocations shall be prioritized by the department based on high-accident-corridor criteria. For purposes of this subsection, "high-accident-corridor" means a highway corridor of one mile or more where analysis of collision history indicates that the section has higher than average collision and severity factors.

(17) Up to $2,500,000 of the motor vehicle account--state appropriation is provided ((~~solely~~)) for the Yakima downtown futures initiative.

(18) Up to $810,000 of the multimodal transportation account--state appropriation is provided ((~~solely~~)) for the projects identified in this subsection: Des Moines creek trail, $250,000; SR 282 to Port of Ephrata connector, $385,000; Mount Baker Ridge viewpoint, $175,000.

(((~~20~~))) (19) Up to $688,000 of the motor vehicle account--federal appropriation is provided ((~~solely~~)) for completion of the Coal Creek Parkway project.

(((~~21) $9,000,000 of the passenger ferry account--state appropriation is provided solely for the implementation of the passenger-only ferry grant program created in Substitute Senate Bill No. 6787. If Substitute Senate Bill No. 6787 is not enacted by June 30, 2006, the amount provided in this subsection shall lapse.~~))

(20) $827,000 of the motor vehicle account--federal appropriation is provided solely for the projects identified in this subsection: The Franklin county slide project, $800,000; and the Loomis-Oroville Road guardrail replacement project, $27,000.

(21) $252,000 of the multimodal transportation account--state appropriation is provided solely for the Winthrop pedestrian and bike path project.

TRANSFERS AND DISTRIBUTIONS

Sec. 1001. 2006 c 370 s 401 (uncodified) is amended to read as follows: **FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE ACCOUNT AND TRANSPORTATION FUND REVENUE**

Highway Bond Retirement Account Appropriation . . . . . ((~~$334,313,000~~)) $329,713,000

Nondebt-Limit Reimbursable Account Appropriation . . . . . ((~~$6,091,000~~)) $5,791,000

Ferry Bond Retirement Account Appropriation . . . $38,241,000

Transportation Improvement Board Bond Retirement Account--State Appropriation $30,923,000

Motor Vehicle Account--State Appropriation . . . . ((~~$682,000~~)) $782,000

Transportation Improvement Account--State Appropriation $120,000

Multimodal Transportation Account--State Appropriation . . . . . ((~~$370,000~~)) $390,000

Transportation 2003 Account (Nickel Account) Appropriation $6,600,000

Transportation Partnership Account--State Appropriation . . . . . ((~~$1,125,000~~)) $975,000

TOTAL APPROPRIATION ((~~$418,465,000~~)) $413,535,000

Sec. 1002. 2006 c 370 s 402 (uncodified) is amended to read as follows: **FOR THE STATE TREASURER--BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR**

BOND SALE EXPENSES AND FISCAL AGENT CHARGES
Motor Vehicle Account--State Appropriation $248,000
Transportation Improvement Account--State Appropriation
. . . . . ((~~$13,000~~))
$18,000
Multimodal Transportation Account--State Appropriation $35,000
Transportation 2003 Account (Nickel Account)--State
Appropriation $2,200,000
Transportation Partnership Account--State
Appropriation $375,000
TOTAL APPROPRIATION . . ((~~$2,871,000~~))
$2,876,000

Sec. 1003. 2006 c 370 s 404 (uncodified) is amended to read as follows: **FOR THE STATE TREASURER--STATE REVENUES FOR DISTRIBUTION**
Motor Vehicle Account Appropriation for
motor vehicle fuel tax distributions to cities
and counties . . . . . ((~~$487,612,000~~))
$468,391,000

Sec. 1004. 2006 c 370 s 405 (uncodified) is amended to read as follows: **FOR THE STATE TREASURER--TRANSFERS**
Motor Vehicle Account--State
Appropriation: For motor vehicle fuel tax
refunds and transfers . . . . . ((~~$1,037,342,000~~))
$1,031,321,000

Sec. 1005. 2006 c 370 s 406 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF TRANSPORTATION--TRANSFERS**
(1) RV Account--State Appropriation:
For transfer to the Motor Vehicle Account--State ((~~$2,000,000~~))
$1,915,000
(2) Motor Vehicle Account--State Appropriation:
For transfer to Puget Sound Capital Construction
Account--State . . . . . ((~~$73,000,000~~))
$70,223,000
(3) Highway Safety Account--State Appropriation:
For transfer to the Motor Vehicle Account--State . . $5,000,000
(4) Motor Vehicle Account--State Appropriation:
For transfer to the Puget Sound Ferry Operations
Account--State . . . . . ((~~$31,000,000~~))
$50,680,000
(5) Motor Vehicle Account--State Appropriation:
For transfer to the Transportation Partnership
Account--State $33,127,000
(6) Highway Safety Account--State Appropriation:
For transfer to the Multimodal Transportation
Account--State $25,980,000
(7) Transportation Partnership Account--State Appropriation:
For transfer to the Small City Pavement and Sidewalk
Account--State $1,000,000
(8) Transportation Partnership Account--State Appropriation:
For transfer to the Transportation Improvement
Account--State $2,500,000
(9) Transportation Partnership Account--State Appropriation:
For transfer to the County Arterial Preservation
Account--State $1,500,000
(10) License Plate Technology Account--State Appropriation:
For transfer to the Motor Vehicle Account--State . . $2,500,000
(11) Multimodal Transportation Account--State Appropriation:
For transfer to the Transportation Partnership
Account--State $29,417,000
(12) Motor Vehicle Account--State Appropriation:
For transfer to the Freight Mobility Multimodal
Account--State, up to a maximum of . . . . . ((~~$3,700,000~~))
$3,537,000
(13) Multimodal Transportation Account--State Appropriation:
For transfer to the Tacoma Narrows Toll Bridge
Account--State $1,300,000
(14) Multimodal Transportation Account--State Appropriation:
For transfer to the Freight Mobility Multimodal
Account--State $4,610,000
(15) Motor Vehicle Account--State Appropriation:
For transfer to the Tacoma Narrows Toll Bridge
Account--State $5,288,000

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

(a) The department of transportation shall only transfer funds in subsection (2) of this section up to the level provided, on an as-needed basis.

(b) The amount transferred in subsection (12) of this section shall be the same as the Union Pacific Railroad's original contribution, adjusted for earned interest and expenditures, and shall be made on June 30, 2006.

(c) The amount transferred in subsection (14) of this section is the equivalent of the Burlington Northern Santa Fe funds advanced to the SR 519 project and shall be invested in a freight mobility project agreed to by the freight mobility strategic investment board and the BNSF railway if the final design of the SR 519 project does not include the original rail benefit.

(d) The amount transferred in subsection (13) of this section is appropriated as a nonreimbursable state financial contribution to the project and does not require repayment.

MISCELLANEOUS

NEW SECTION. **Sec. 1101.** 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. 1102.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

(End of bill)

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On page 1, line 1 of the title, after "appropriations;" strike the remainder of the title and insert "amending RCW 46.68.170, 47.29.170, 46.16.685, 47.01.390, 88.16.090, 47.12.244, 70.95.521, 47.06A.030, and 46.68.060; reenacting and amending RCW 46.16.725; amending 2006 c 53 s 2 (uncodified); amending 2006 c 370 ss 205, 208, 209, 210, 215, 218, 224, 226, 227, 228, 229, 301, 302, 303, 304, 305, 306, 307, 308, 309, 401, 402, 404, 405, and 406 (uncodified); adding new sections to 2005 c 313 (uncodified); creating new sections; making appropriations and authorizing expenditures for capital improvements; and declaring an emergency."

And the bill do pass as recommended by the conference committee.

Signed by Senators Haugen, Marr and Swecker; Representatives Clibborn and Flannigan.

MOTION

Senator Haugen moved that the Report of the Conference Committee on Engrossed Substitute House Bill No. 1094 be adopted.

Senators Haugen, Swecker, Marr, Murray, Benton, Spanel, Zarelli and Clements spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Haugen that the Report of the Conference Committee on Engrossed Substitute House Bill No. 1094 be adopted.

The motion by Senator Haugen carried and the Report of the Conference Committee was adopted by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1094, as recommended by the Conference Committee.

Senator Pflug spoke on final passage of the bill.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1094, as recommended by the Conference Committee, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 3; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, 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 - 46

Voting nay: Senators Holmquist, Morton and Pflug - 3

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1094, as recommended by the Conference Committee, 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.

PERSONAL PRIVILEGE

Senator Haugen: "Mr. President, if I may I'd like to have this body help me say thank you to a terrific Transportation staff. I know Mike is probably hiding in the wings somewhere but I do have several members here. I just want to say how much I appreciate the work they did. They're just an extraordinary group of young people led by an outstanding coordinator and I wish you would help me say thank you to them."

MOTION

At 8:45 p.m., on motion of Senator Eide, the Senate adjourned until 10:00 a.m. Saturday, April 21, 2007.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate